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Security Council

Sixty-fourth year

Provisional

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Thursday, 28 May 2009, 10 a.m.

New York

President:	Mr. Churkin	(Russian Federation)
Members:	Austria	Mr. Mayr-Harting
	Burkina Faso	Mr. Kafando
	China	Mr. Du Xiaocong
	Costa Rica	Mr. Urbina
	Croatia	Mr. Vilović
	France	Mr. Ripert
	Japan	Mr. Takasu
	Libyan Arab Jamahiriya	Mr. Shalgham
	Mexico	Mr. Heller
	Turkey	Mr. İlkin
	Uganda	Mr. Rugunda
	United Kingdom of Great Britain and Northern Ireland	Sir John Sawers
	United States of America	Ms. DiCarlo
	Viet Nam	Mr. Bui The Giang

Agenda

The situation in Bosnia and Herzegovina

Letter dated 13 May 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/246)

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09-35192 (E)

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The meeting was called to order at 10.10 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Bosnia and Herzegovina

Letter dated 13 May 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/246)

The President (*spoke in Russian*): I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, the Czech Republic and Serbia, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

I request the Protocol Officer to escort His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, to a seat at the Council table.

Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, was escorted to a seat at the Council table.

The President (*spoke in Russian*): On behalf of the Council, I extend a warm welcome to His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina.

At the invitation of the President, Mr. Palouš (Czech Republic) and Mr. Kruljević (Serbia) took the seats reserved for them at the side of the Council chamber.

The President (*spoke in Russian*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Valentin Inzko, High Representative for Bosnia and Herzegovina.

It is so decided.

I invite Mr. Inzko to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I should like to draw the attention of members of the Council to document S/2009/246, containing a letter dated 13 May 2009 from the Secretary-General transmitting the thirty-fifth report of the High Representative for Bosnia and Herzegovina.

At this meeting, the Security Council will hear a briefing by His Excellency Mr. Valentin Inzko. This is the first appearance of Mr. Inzko in the Security Council as High Representative for Bosnia and Herzegovina. On behalf of the Security Council, I extend a warm welcome to him and wish him success in his important assignment. I now give him the floor.

Mr. Inzko: Thank you, Mr. President, for giving me the opportunity to present my first report as High Representative for Bosnia and Herzegovina. I have been in office just two months, but I will update the Council on significant events over the past six months. I will also outline my priorities.

Some progress has been made towards our objective of making Bosnia and Herzegovina a peaceful, viable State, irreversibly on course for European integration. Equally on the positive side, the country remains stable and the physical environment is secure.

On a less positive note, however, the State is not yet fully viable and its role and competencies are contested by some of its political leaders. As a result, recent progress towards Euro-Atlantic integration has been modest, and as a consequence, the country still requires high attention. Last week, United States Vice-President Biden and European Union (EU) High Representative for the Common Foreign and Security Policy Solana were in Bosnia and Herzegovina in an unprecedented joint visit.

The focus was extremely useful and warmly welcomed by the population. However, the poor performance on EU and transatlantic integration is deplorable, particularly as the world recession now also threatens the fragile economy of Bosnia and Herzegovina. The State and entities' successful negotiation of a €1.2 billion stand-by arrangement with the International Monetary Fund (IMF) revealed an

unusual degree of common purpose, but the reforms agreed with the IMF will have the desired result only if the authorities take appropriate and targeted steps. The Federation's finances are especially dire, and its capacity to agree upon and implement cuts in the face of strong vested interests is rather weak. The Republika Srpska of Bosnia and Herzegovina is, in this regard, for the time being, in a better position.

In these circumstances, it is clear that obstruction of urgent reforms that would help improve living conditions is absolutely unjustified on moral as well as political grounds. I will seek to keep this plain fact at the centre of public debate in Bosnia and Herzegovina. At the same time, I will seek a change in the political paradigm that downgrades practical and pressing economic issues and stresses instead a strident and unhelpful kind of posturing.

My predecessor reported last December on a highly hopeful development towards overcoming the political stalemate. This was the initiation, in November 2008, of the so-called Prud process of dialogue among leaders of the three largest national parties and coalition partners at the State level: Dragan Covic of the Croatian Democratic Community; Sulejman Tihic of the Bosniac Party of Democratic Action; and Milorad Dodik of the Serb Alliance of Independent Social Democrats. My Office and I have supported this process since it represents a home-grown political initiative for dialogue and cooperation.

Periodic meetings of the "Prud three" over a three-month period resulted in various compromise agreements and prospective agreements on major issues, ranging from the question of a State budget for 2009 to the promise to initiate talks on constitutional reforms and the early fulfilment of parts of the outstanding objectives and conditions set by the Peace Implementation Council (PIC) in February 2008 for the closure of my Office and its transformation into an EU-led presence.

Unfortunately, the Prud process lost momentum, and the three party leaders have not met on their own again since late March, though they have been brought together by the international community on a number of occasions, recently by the Ministers for Foreign Affairs of three successive EU presidencies — Ministers Bildt, Kouchner and Schwarzenberg — and then, last week, by United States Vice President Joe Biden and EU High Representative for the Common Foreign and Security Policy Javier Solana. On each occasion, the three leaders expressed their commitment to continuing their dialogue.

Foremost among the achievements facilitated by the Prud process has been the passage on 26 March of the first-ever amendment to the country's 1995 Dayton Constitution. This amendment defines the status of the Brcko District and provides it with direct access to the Bosnia and Herzegovina Constitutional Court in the event of any dispute with the State or entities. Not only was the enactment of such an amendment one of the five objectives set out by the PIC Steering Board as prerequisites for a transition from the Office of the High Representative to the EU Special Representative, it was also a condition for the Supervisor to do away with the Arbitral Tribunal and for the PIC Steering Board to terminate the supervisory regime. That could now happen soon.

Other positive news included the agreement among the State, entities and Brcko District on the budget framework for 2009, which enabled a relatively early adoption of the budget.

In addition, the National War Crimes Strategy was finally adopted in late December. This Strategy was part of the fifth objective — the entrenchment of the rule of law — set by the PIC to allow for the transition from the Office of the High Representative to the EU Special Representative.

Progress on the second objective — apportionment of State property — has been more limited, due to the inability of the Prud three to compromise on this issue. However, pressure on and cooperation with local actors has recently brought a first move forward in this area, with the initiation in late April of the long-delayed process of the inventory of State property, which provides the necessary legal framework. I would like to expressly thank Prime Minister Špirić for his efforts and input in this regard. We will focus, of course, in the weeks to come, on this issue to ensure its completion.

Notwithstanding the positive achievements that have been made, divisive rhetoric and official resolutions challenging the sovereignty, constitutional order and territorial integrity of Bosnia and Herzegovina all continued during the reporting period, principally on the part of Republika Srpska. That entity has, in official Government and National Assembly documents, on several occasions referred to the

possibility of unilateral self-determination. Its leaders have been in the forefront of attacks on the legitimacy of State institutions — judicial, prosecutorial, policing, economic, intelligence and defence — as well as in the forefront of efforts to reverse previous State-building and EU-mandated reforms. That is all taking place at a time when the State Investigation and Protection Agency has submitted a preliminary report to the State Prosecutor on possible financial wrongdoing by the Prime Minister. On 14 May, those attacks culminated in the adoption by the Republika Srspka National Assembly of conclusions that call for the return of 68 competencies allegedly stolen by the State.

The conclusions also undermine the legitimacy of the decisions of the Peace Implementation Council and the Office of the High Representative, as well as those of the previous High Representatives. I take that seriously, and I take people at their word. My basic role as High Representative is to uphold the Dayton Peace Agreement, at the centre of which is the sovereignty of the State and the competencies of its institutions. I will not let those be challenged.

That campaign has also blocked the passage of State legislation required to complete the EU's road map for the elimination of visas for Bosnia and Herzegovina citizens travelling to EU States. It has also for some time blocked other State legislation that would fulfil Bosnia and Herzegovina's obligations under the Stabilization and Association Process.

While Bosniak and Croat politicians have of late generally avoided wholesale attacks on Republika Srpska's legitimacy, it should be noted that Federation-based media have maintained an offensive stance towards the other entity.

As 2010 is a general election year, there is now only a small window of opportunity to start work on even minimal constitutional reforms, particularly if those are to entail any revisions of the election law, which they surely will. The positions of the main parties remain far apart, but the onus is now on them to engage in serious dialogue, and then reach agreements that reflect their EU aspirations and can secure a two-thirds majority in Parliament. I will assist them in my capacity as EU Special Representative. Do they have the capacity to succeed in this? I believe they do. Do they have the political will? Only they can answer that question.

Of the five objectives and two conditions set by the PIC for the transition of the Office of the High Representative into a reinforced office of the EU Special Representative, three objectives can now be considered as having been met. Two of them were completed during this reporting period. They are the constitutional amendment to secure completion of the Brcko Final Arbitral Award and the entrenchment of the rule of law through the adoption of a Bosnia and Herzegovina strategy for the domestic prosecution of war crimes, as well as action plans to implement a justice-sector reform strategy over the period 2009 to 2013. That leaves two unmet objectives, relating to acceptable and sustainable agreement on apportioning ownership of State property and defence property between the State and its entities.

My Office has long argued that, as a first step, the Council of Ministers should initiate an inventory of the property involved. The Council of Ministers eventually agreed to do so, for which I thank Chairman Špirić, and has set up a working group with a deadline of 30 September to complete the process. My aim is now to engage political leaders so that an appropriate solution can be found as quickly as possible.

The defence property issue is less complicated and less important to the political parties, but is nonetheless crucial to cementing defence reform and sustaining Bosnia and Herzegovina's hopes of joining NATO. We had previously assumed that a settlement would follow naturally. However, it now seems necessary to deal separately with the issue of what real estate the armed forces are to possess. The issue of surplus weaponry, ordnance and equipment has long been settled, at least in theory. My Office, together with NATO headquarters in Sarajevo, will now focus on quickly resolving the issue of military real estate and property.

Given the failure of domestic authorities to deliver on all five objectives set by the PIC Steering Board, the Board did not consider the issue of transition when it met in late March. While I can report that there has been progress on State and defence property issues, at this stage it appears rather unlikely that the Peace Implementation Council Steering Board will take a decision to close the Office of the High Representative when it meets in late June. However, I believe that the objectives and the conditions can be delivered before the PIC meeting in October. The PIC could then possibly be in a position to decide on the

closure of the Office and the transition to the EU's Special Representative.

Following the joint visit in April by the three EU presidency Foreign Ministers — Ministers Kouchner, Schwarzenberg and Bildt — the joint visit by Vice-President Biden and High Representative Solana on 19 May attested both to a strong common approach and the EU's seriousness about the need for a robust and tailor-made strategy for the future EU Special Representative in the country. Current domestic circumstances make such enhanced involvement by the EU and the wider international community essential. The vast majority of the citizens of Bosnia and Herzegovina continue to support Euro-Atlantic integration and the prosperity, security and self-respect it would bring. Although we have seen signs of progress, in general the nationalistic political dynamic routinely overrides popular sentiment. I will need the Council's support in countering that.

I have outlined the progress that we have made and the obstacles we have encountered. The fact is that there is progress, although it is slow, and we have reason to believe that the positive will win out over the negative. That is what the people of Bosnia and Herzegovina want and that is what we must continue to help them to achieve. As I said during a recent meeting with civic activists, the majority of citizens undoubtedly believe in doing what is necessary and right. That is the real majority in Bosnia and Herzegovina — not an ethnic majority but a majority of those who want to live in a free and prosperous country that is part of the European Union. I am on the side of that majority and I believe that it will prevail.

The President (*spoke in Russian*): I thank Mr. Inzko for his briefing.

I now invite His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, to make a statement.

Mr. Špirić (Bosnia and Herzegovina) (*spoke in Bosnian; interpretation provided by the delegation*): May I first convey my warmest greetings to everyone and express my pleasure at having once again been given an opportunity to share my views with this body about the current situation in Bosnia and Herzegovina and the challenges we face. I would also like to avail myself of this opportunity to welcome the new High Representative, Mr. Valentin Inzko, who is the third High Representative during my time in office. I wish him a successful tenure, which would also redound to my country's success. This is also an opportunity for me to express my readiness to cooperate with his Office, thereby contributing to achieving the objective.

Despite different views as to the successes, impasses and failures of my country during the reporting period, I can agree that all of us in Bosnia and Herzegovina could and should have done more to make progress towards integration into the European Union (EU) and NATO at a faster pace. In order to do so, Bosnia and Herzegovina must have more confidence in itself and political leaders must work more and expect less. The much-needed compromise must be viewed as a virtue, not a weakness.

Guided by this idea, the Council of Ministers has been doing its best to ensure the progress of Bosnia and Herzegovina on its Euro-Atlantic road in an environment that, more often than not, has not been one of compromise, dialogue and consensus. Since December, we have held 19 sessions, two of which were thematic — one devoted to European integration and another devoted to NATO integration.

As regards our goal to attain full membership of the European Union, over the past period the Council of Ministers has focused on adopting laws and meeting the requirements of the action plan for the implementation of the European Partnership commitments, and we have discussed and adopted 37 bills and draft laws, eight of which are related to the European Partnership. We have also issued a number of decisions and strategies that, in practice, constitute the fulfilment of the European Partnership requirements.

Domestic authorities have been involved in implementing the Interim Agreement on trade and trade-related matters between the European Community and Bosnia-Herzegovina, which will remain in force until the full ratification of the Stabilization and Association Agreement. The quarterly report indicates that, as of 31 December 2008, all requirements for the period had been met in a timely manner and in line with the action plan adopted by the Bosnia and Herzegovina Council of Ministers. That trend continues in 2009.

As regards the liberalization of the visa regime for Bosnian citizens, we have focused on fulfilling the requirements as laid down in the road map. Of 174 requirements set forth in the document, we have fully met 149, 18 are being fulfilled, and 7 are still to be

met. I am well aware of the importance of this issue for Bosnian citizens, given the fact that we are behind other countries in the region in fulfilling the requirements, and that six crucial laws required for the visa regime liberalization have not received the necessary support within the Bosnia and Herzegovina Parliament. Therefore, at the penultimate session of the Council of Ministers, I tasked the State-level ministers with convening a mini-ministerial conference as soon as possible, to be attended by the responsible State and entity ministers, and with producing a harmonized wording of the said laws, which would subsequently be forwarded by the Council of Ministers to the Bosnia and Herzegovina Parliament in a summary procedure.

I expect that, when we return to Bosnia and Herzegovina, we shall be in a position to forward the new wording of the laws to Parliament and fulfil the remaining requirements for the visa regime liberalization. The messages that United States Vice-President Joseph Biden and the EU High Representative for Security Policy, Mr. Xavier Solana, sent during their recent visit to Bosnia and Herzegovina are strong encouragement on that path.

The White Schengen list for our citizens would certainly strengthen the European idea within Bosnia and Herzegovina and provide incentives to the forces that are unequivocally committed to those processes. The goal of our adoption of these laws is to send a clear message to Brussels that we are resolute, which gives us due cause to expect that the visa regime will be liberalized by the end of this year or possibly early next year. I hereby wish to urge Council members to encourage the European Commission to expedite its procedures and thus further strengthen the European perspective of Bosnia and Herzegovina.

With regard to Bosnia and Herzegovina's progress towards NATO, at its thematic session devoted to the issue the Council of Ministers discussed the level of implementation of the plan of action for the implementation of the Individual Partnership Action Plan for Bosnia and Herzegovina. The Action Plan is the most important document for Bosnia's further progress towards Euro-Atlantic integration. The level of Action Plan implementation, which has exceeded 85 per cent of the total of 291 activities, further corroborates the high level of success of Bosnia and Herzegovina in the process of acceding to NATO.

We have also focused on attaining the goals for Bosnian institutions set by the Steering Board of the Peace Implementation Council. In that respect, the Council of Ministers took the initiative to push forward the constitutional amendment related to the status of Brcko District, which was subsequently adopted by the vast majority of the members of the Parliamentarian Assembly. We have also adopted a strategy to reform our judiciary system and address war crimes, by which we have completed the goal related to the establishment of the rule of law.

In addition, we have issued a decision to establish the property census, which is a prerequisite for adopting the law and for the ultimate resolution of the issue. We are determined to fully attain the said goals so as to enable the Steering Board of the Peace Implementation Council to issue a decision in November to transform the Office of the High Representative into the Office of the European Union Special Representative.

Democracy, good governance and the rule of law cannot continue to develop within Bosnia and Herzegovina if the fundamental principles of democracy, good governance and the rule of law are not observed by the very international representatives who claim to seek their establishment. The State of Bosnia and Herzegovina and the entities have the legal and moral obligations to protect the rights of their citizens as set forth in their laws, constitutions and human rights instruments, and to adhere to general principles of international law and the rule of law. It is now time for the international community to end any support for peremptory powers in Bosnia and Herzegovina and instead to support the State of Bosnia and Herzegovina and the entities in the discharge of their legal and moral obligations.

The agreements that constitute the Dayton Accords, including the Bosnia and Herzegovina Constitution set forth in annex 4, are the legal instruments to which the relevant parties are bound as the framework for enduring peace and stability in Bosnia and Herzegovina. As a fundamental principle of international law and pursuant to Bosnian domestic law, these cannot be amended or modified except by further agreement of the relevant parties. The Security Council should support the Dayton Accords as the binding legal framework for Bosnia and Herzegovina. Attempts by foreign States or international organizations to impose a system of governance that is

inconsistent with the Dayton Accords through the exercise of peremptory powers or other methods will not be legally valid, and such actions would not have the support of Bosnia and Herzegovina citizens. The consensus on which the legitimacy of all Governments ultimately rests must come from within.

Bosnia and Herzegovina remains fully committed to full cooperation with the Hague Tribunal; hence, over the past period we have adopted a strategy to reform the judiciary system and address war-crime-related matters, as well as a decision to set up a supervisory authority for monitoring the implementation of the said strategy. Considering the importance of the issue of the return of refugees and displaced persons, we identified and adopted a revised strategy for the implementation of annex 7, which was subsequently adopted by the Parliamentary Assembly.

The issues of the global economic crisis and of mitigating its consequences in Bosnia and Herzegovina have dominated the past period. The establishment of the Bosnia and Herzegovina Fiscal Council and its efficient operation have led to a coordinated approach to the issue, which has resulted in successful negotiations with the International Monetary Fund. This example shows that when Bosnia and Herzegovina speaks with one voice, it is possible to reach agreement even on the most delicate issues. The goal of such a package is to preserve macroeconomic stability in the midterm and ensure further economic growth.

I take this opportunity to express my concern over the absence of a regional and European dimension in resolving this issue, as I am almost certain that Bosnia and Herzegovina, like any other State acting on its own, will not be able to address the challenges presented by the economic crisis. It is for this reason that I have launched an initiative before the Regional Cooperation Council secretariat, headquartered in Sarajevo, to found an investment bank for South-East Europe. Taking into account the economic challenges to the region, as well as the European Commission's announcement that the new strategy for the countries of South-East Europe will prioritize economic development and regional cooperation through joint projects, I believe that this is the right time to launch such an initiative.

As Council members know, Bosnia and Herzegovina is a country that has managed to fulfil various requirements, implement reforms and address difficult issues emerging on its European path, with varying success. I concur that this is the year in which we will have to face constitutional reform as a new challenge. It must go hand in hand with realistic goals, and its ultimate success will require us to ensure conditions in which civilized dialogue is possible. I deem of the highest importance the fact that such reform must be the fruit of internal dialogue and compromise based on the Dayton Peace Agreement.

The assistance of international institutions in the form of good advice is certainly more than welcome. Such assistance will certainly result in achievable constitutional reform. There are some who feel or hope that constitutional reform that will come through pressure or diktat from Washington, D.C., or Brussels. I believe that this approach would not only be a waste of time, but also lead to instability.

On an earlier occasion, I have had an opportunity to read the High Representative's report before the Council (see S/2009/246). Without seeking to qualify the report in any way, I note that no one is exclusively guilty or absolutely blameless for what has happened in Bosnia and Herzegovina, either before or after the Dayton Accords. Bosnia and Herzegovina and the international community must find a way to stop identifying scapegoats and turn to seeking better solutions. I am personally of the opinion that not only is Bosnia and Herzegovina a greater success than is reflected in the report, but also that there is greater optimism within the country that will bring us further success.

The President (*spoke in Russian*): I thank Mr. Špirić for his statement.

Mr. Urbina (Costa Rica) (*spoke in Spanish*): At the outset, my delegation would like to welcome His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina. We would also like to welcome Mr. Valentin Inzko, the new High Representative for Bosnia and Herzegovina and Special Representative of the European Union. We are very grateful to him for his detailed report (see S/2009/246) and welcome his efforts to orient and coordinate initiatives related to the implementation of the Peace Agreement. We recognize a healthy dose of realism in his report, in which he recounts the positive advances and the current limitations in the situation in

Bosnia and Herzegovina. In that regard, my country would like to make the following specific observations.

First of all, it has not been easy to leave behind a conflict that cost so much sacrifice in human lives, nor has it been easy to create a multi-ethnic and multinational State. The Dayton Peace Agreement and all the subsequent agreements and declarations of the Steering Board of the Peace Implementation Council (PIC) are a solid, consistent framework that points an unambiguous way forward towards peace and political stability in Bosnia and Herzegovina.

Secondly, we are aware of the fact that it is hard to bring all positions into agreement towards the achievement of a political system and dynamic endorsed by all participants. But a way has been shown by political movements that have committed to dialogue, and there is a route leading to constitutional reforms to consolidate the democratic foundations and modernize the political structures of the country. Unilateral positions are not acceptable if they jeopardize the efforts made towards that end. Sensitivity and openness to dialogue must prevail in the attitudes of all political forces without exception.

We note with concern some pockets of resistance that complicate the job and mandate of the High Representative and imperil the decisions of the Peace Implementation Council. According to those decisions, there are five objectives and two conditions that must be met before the transition from the Office of the High Representative to the Special Representative of the European Union can be completed. My country is carefully monitoring compliance with these agreements and finds it advisable not to force the deadlines if the political conditions for this transition are not sufficiently mature. Respect for agreed institutions is indispensable. We urge the High Representative to redouble his efforts with all actors to establish a political climate that will facilitate the adoption of the necessary legislation before the 2010 elections and the constitutional reforms equally necessary to consolidate the stability achieved.

My delegation welcomes the adoption on 26 March 2009 of the first constitutional amendment since the Dayton Peace Agreement. It is a healthy sign of a system that values ethnic, cultural and political diversity.

We welcome the entrenchment of the rule of law in Bosnia and Herzegovina, which is one of the five goals set up by the Steering Board of the Peace Implementation Council. The firm commitment to the rule of law, and particularly in cases of war crimes, deserves special praise. The adoption of the War Crimes Strategy is welcome, as is cooperation with the International Criminal Tribunal. Transparency and cooperation with the Court and adherence to the principles of law are very important elements of the fight against impunity. In that vein, we would like to highlight our concern for human rights and the humanitarian aspects of the situation. We believe that the situation of refugees and internally displaced persons deserves special attention.

Mr. Shalgham (Libyan Arab Jamahiriya) (*spoke in Arabic*): At the outset, I would like to welcome and thank Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina. I join previous speakers in thanking Mr. Valentin Inzko, High Representative for Bosnia and Herzegovina, for his briefing, and we wish him success in his duties.

Libya follows with great attention the ongoing political process in Bosnia and Herzegovina. We note that positive progress has been achieved in the recent period with the signing of a broad agreement between the leaders of the three principal political parties in the country on constitutional reform issues that have been long awaited. We also welcome the express readiness of the leaders of the political parties to agree on and move towards resolving the principal political issues, including the outstanding conditions and objectives that remain to be fulfilled before the transition from the Office of the High Representative to the European Union Special Representative can come into effect.

We also salute the adoption of the constitutional amendment incorporating the Brcko District into the Bosnia and Herzegovina Constitution, the adoption of a War Crimes Strategy, and the endorsement of the implementation action plans of the National Justice Sector Reform Strategy. We hope that such positive steps will continue to be taken so that Bosnia and Herzegovina can attain lasting stability. Undoubtedly, it is important at this stage to pursue the process of constitutional reform in Bosnia and Herzegovina on the basis of the principles of the Dayton Peace Agreement.

Despite the positive achievements that have been made in Bosnia and Herzegovina, we still have some concerns about the ongoing extreme nationalist rhetoric that casts certain problems in the country in a

maximalist light. Such nationalist ethnic attitudes could undermine the role of the State, delay progress in achieving reforms, and pose a challenge to the very foundation of the State, as defined in the Dayton Peace Agreement, and to the Constitution of Bosnia and Herzegovina. No one, we believe, can have any doubt that such nationalist rhetoric could reignite the conflict, thereby undermining stability in Bosnia and Herzegovina and the entire region.

Based on the foregoing, we appeal to all sectors of Bosnia and Herzegovina's population to live up to their political responsibility and find ways to coexist through dialogue, respect for the institutions of State and full cooperation with the High Representative. They should also abide by the obligations imposed on everyone under the Dayton Peace Agreement, the Paris Agreement and relevant Security Council resolutions.

We have no doubt that Bosnia and Herzegovina is confronting some difficult problems, and we believe that the only solution is to find agreement and a common vision for the future that is acceptable to all the citizens of Bosnia and Herzegovina within the framework of the Dayton Peace Agreement. We believe that would be the correct way to turn Bosnia into a stable country based on ethnic and cultural diversity and which would play a role in stabilizing the Balkans and achieving prosperity and sustainable development for all its citizens.

In conclusion, we emphasize that continuing to pursue perpetrators of war crimes and crimes against humanity and bringing them to justice will help heal the wounds and ease the pain of the recent past in Bosnia and Herzegovina and will help to achieve a better future.

Mr. Takasu (Japan): I express to Chairman Špirić a warm welcome to the Security Council this morning. I also wish to congratulate Mr. Valentin Inzko on his assumption of the position of High Representative for Bosnia and Herzegovina. Knowing personally his professional competence and deep knowledge of the region, I am convinced that Mr. Inzko will fulfil his responsibilities with distinction and will make a significant contribution to achieving stability in Bosnia and Herzegovina.

I am also grateful for the efforts made to prepare the comprehensive report (see S/2009/246) and for this morning's valuable briefing. We agree with the assessment that only limited progress was made during the reporting period. We acknowledge that some progress has been made regarding the five objectives and two conditions, including issues on the legal status of the Brcko District. However, the political situation has remained unstable due to continuing exchanges of ethnocentric rhetoric. We have serious misgivings about a failure of coordination among Government agencies and major political parties, which has left many issues unresolved. Japan believes that all parties should maintain a constructive attitude in order to develop Bosnia and Herzegovina into a vibrant and sustainable State.

We were somewhat disappointed to hear that the Prud process has lost momentum. We should extend full support to complete the Prud process. Continuation of that process is indispensable if Bosnia and Herzegovina is to become a full-fledged member of the European community. We urge all political leaders to accept that fact and to maintain active engagement in the process to address constitutional reform.

Japan continues to assist Bosnia and Herzegovina to achieve its integration into the Euro-Atlantic community. For that purpose, necessary progress has been made, including on implementation of the five objectives and two conditions and on the transition from the Office of the High Representative to the European Union (EU) Special Representative. High attention must be paid towards urging the international community to work as a strong driving force towards achievement of the Prud objectives.

The recent visits to Sarajevo by the EU troika of Foreign Ministers and by the EU High Representative for the Common Foreign and Security Policy and United States Vice-President Biden demonstrated the determination of the international community to jointly strengthen engagement in the region. We welcome those initiatives to advance the reform process and to stabilize the situation.

Consolidation of peace in the country is the cornerstone of peace and prosperity in the Western Balkan region as a whole. Japan believes that the human security perspective helps to consolidate coexistence, reconciliation and stability in a multi-ethnic society. Based on that belief, we have been actively contributing to community reconciliation, stability and development in Bosnia and Herzegovina, through bilateral programmes. We have also been an active member of the Peace Implementation Council

(PIC) Steering Board, since the beginning. Early this year, we decided to support a new project on demining in Banovici and processing war crimes cases, with a view to enhancing human security. We will extend additional support to Bosnia and Herzegovina in its efforts to establish a sound base for sustainable development and to consolidate peace.

In conclusion, the role of the High Representative will continue to be important in the light of the still-unstable situation. As a member of the PIC, we encourage Mr. Inzko to make full use of his authority as High Representative, including the exercise of his Bonn powers in the event that necessity so demands.

We urge Bosnia and Herzegovina to accelerate stabilizing efforts and its integration into the Euro-Atlantic community. I reiterate my country's firm and continued commitment to support Bosnia and Herzegovina in advancing that process.

Mr. İlkin (Turkey): Let me begin by extending a warm welcome to His Excellency Mr. Nicola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, and thanking him for participating in our debate today. The messages he gave are clear. I would also like to extend my congratulations to Mr. Inzko on his appointment as High Representative for Bosnia and Herzegovina. We wish him all success in his work. He can always count on my country's support and cooperation.

Allow me also to thank Mr. Inzko for his report (see S/2009/246). We welcome it, and we agree with its tone and content. Bosnia and Herzegovina occupies a distinct place on our foreign policy agenda. Considering ourselves a part of the Balkans and attaching great importance to the maintenance of peace, security and stability in the region, Turkey provides troops, civilian police and other experts to the European Union military mission in Bosnia and Herzegovina (EUFOR) and to the European Union Police Mission. And as a member of the Steering Board of the Peace Implementation Council, we follow the developments in Bosnia and Herzegovina closely and would like to see the country firmly integrated into European and transatlantic institutions at an early date.

To achieve all of that, consolidation of an effective, stable and viable State structure in Bosnia and Herzegovina, as foreseen in the Dayton Peace Accords, is essential. In this vein, we appreciated and supported all the efforts made by the leaders of the three political parties to establish trust and find common ground in order to carry out the reform agenda. At the same time, I would like to underline that we need to understand some of the concerns of the political parties that have not yet signed that Agreement.

In this vein, we encourage the three parties to seek broader agreement with all others and welcome the process as a sign of ownership of the future of the country. Indeed, initially there were some concrete outcomes, as the High Representative has informed us. Still, we are far from the end of the road, and further efforts are needed to tackle certain difficult issues. But we are afraid that momentum is being lost. What is even more important and worrying is the increase in nationalist, anti-Dayton rhetoric and actions, especially by the leaders and institutions of the Republika Srpska, that inevitably challenge the sovereignty, territorial integrity and constitutional order of the country.

As is well known, the Peace Implementation Council set five objectives and two conditions for the transition from the Office of the High Representative to the European Union Special Representative, about one and a half years ago. Let me underline that we do not want the Office of the High Representative to remain in Bosnia and Herzegovina forever — and that is clearly not the wish of the peoples of the country. However, for the Peace Implementation Council to make a positive assessment and to start the process of transition, the international community needs to be convinced that all in Bosnia and Herzegovina have a common vision for the future of the country.

That is not the impression we have at this moment. We do not yet see a country whose people and entities are fully united around the common goal of a peaceful, stable and prosperous State fully anchored within the Euro-Atlantic community of nations. What we see, rather, is a country of opposing views and divisions. Definitely, this is not the point that Bosnia and Herzegovina should have reached more than 14 years after the Dayton Agreement.

Time is of the essence for Bosnia and Herzegovina. We would very much like to see the reform process revived so that the five objectives and two conditions are completely fulfilled. We know that this can be done as long as there is the political will. In that respect, we call on all the leaders and authorities of Bosnia and Herzegovina to work and cooperate closely with the High Representative.

The peoples of Bosnia and Herzegovina have in the recent past shown their determination and resilience in putting an end to the conflict and setting up a partnership State. We are confident that they will also succeed in achieving those reforms. As has been the case in the past, Turkey remains ready to assist the people of Bosnia and Herzegovina, in any way it can, in achieving their aspirations.

Mr. Mayr-Harting (Austria): Let me first welcome the presence in the Council today of Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina. I would also like to extend a very warm welcome to my countryman and my friend of long standing, High Representative Valentin Inzko. He knows that he can count on Austria's full and continued support. Furthermore, we should also pay tribute to his predecessor, Mr. Miroslav Lajčák, whose activities are covered in much of the report before us today (see S/2009/246).

Prime Minister Špirić knows that Austria is and will remain a reliable partner of Bosnia and Herzegovina on its path towards lasting stability and European integration. We are convinced that the stability of Bosnia and Herzegovina is key for the realization of a broad zone of stability in the Balkans. The Prime Minister knows that we believe that membership of the European Union (EU) offers by far the best medium-term and long-term chance for a solution to most of the problems that we have heard about today.

Against this background, Austria hopes that the reforms necessary for the Euro-Atlantic integration of Bosnia and Herzegovina will be taken up again and brought to a successful completion. The political atmosphere currently prevailing in the country — nationalistic and divisive rhetoric, attacks that undermining State institutions and the territorial integrity of Bosnia and Herzegovina and challenges to the authority of the High Representative — will not serve that purpose. We appeal to all political leaders in the country to overcome the past and to give priority to what is really important for the future of Bosnia and Herzegovina: its European perspective, which is in the interests of all the citizens of the country.

Austria attaches great importance to the principle of Bosnian ownership. Lasting stability can be achieved only through efforts coming from within the country. In this respect, we believe that it is the principal role of the High Representative to support Bosnians' efforts in addressing their own pending problems: to help Bosnians help themselves. At the same time, we are aware that the High Representative has far-reaching powers at his disposal, and he has our full support in making use of them if that is warranted by the circumstances.

Austria fully supports the objective of a transition from the Office of the High Representative to a substantially reinforced presence of the European Union. Preparations for this step are well under way within the Union. We welcome the progress achieved so far by Bosnia and Herzegovina in delivering on the five objectives and the two conditions, including the recent decision on the Brcko District. The process of dialogue and compromise launched in Prud last year has significantly contributed to this progress, and we hope that increased efforts by all political leaders, but also a stronger will to find common ground, will make substantial progress possible. We also hope that the ongoing disagreements on the inventory working group for State property will be overcome soon, and that the group will be able to continue its work.

We welcome the progress achieved in strengthening the rule of law. The adoption of a war crimes prosecution strategy and the adoption of a justice sector reform strategy are important steps, and we look forward to their full implementation. Continued cooperation with the International Criminal Tribunal for the Former Yugoslavia, effective measures against those helping the remaining fugitives evade justice and the strict enforcement of sentences against convicted war criminals are crucial to promote justice and the rule of law.

The economic developments in Bosnia and Herzegovina outlined in the report give rise to concern. The seriousness of these challenges is further aggravated by the global economic crisis. These difficult issues have to be addressed in a concerted effort by all political actors across entities and ethnic affiliations.

Bosnia and Herzegovina and the other Western Balkan countries have the perspective of future membership of the European Union. Bosnia and Herzegovina took a major step on its European path when it signed a comprehensive Stabilization and Association Agreement with the European Union in 2008; this will enter into force once its ratification

process has been completed. The Agreement constitutes the legal framework for EU-Bosnia and Herzegovina relations until future membership.

Bosnia and Herzegovina and its Western Balkan neighbours are currently engaged in a dialogue with the European Union in order to achieve visa-free travel for their citizens in the countries of the Union. For that to become reality, the countries of the region must make substantial efforts in areas such as the security of documents, readmission and the fight against illegal migration. Austria will continue to strongly support those efforts. Austria is hopeful that Bosnia and Herzegovina will soon fulfil the conditions for visa liberalization, because that would also contribute to building a sustainable and strong security partnership with the European Union.

Finally, we share the assessment of the High Representative that the European Union military operation in Bosnia and Herzegovina (EUFOR) is still vital for the maintenance of a safe and secure environment in Bosnia and Herzegovina and that that operation continues to be a key reassurance factor in the country. As a troop contributor to the operation since its establishment, with some 110 troops currently serving within EUFOR, Austria is committed to maintaining that contribution.

Mr. Ripert (France) (*spoke in French*): I wish at the outset to welcome the new High Representative and to thank him for his statement this morning. We fully agree with his analysis of the situation in Bosnia and Herzegovina. I wish also to welcome Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina. We take careful note of his reaffirmed intention to carry out the necessary reforms, and we encourage him to continue and step up his endeavours to that end.

The representative of the Czech Republic will soon make a statement on behalf of the European Union, and France naturally associates itself with that statement. I should like, however, to make some supplementary remarks in my national capacity.

Over the past 14 years, Bosnia and Herzegovina, with the support of the European Union, has carried out reforms that are essential for its stability and prosperity. In June 2008 it reached an important milestone by signing a Stabilization and Association Agreement with the European Union, which reasserted its commitment to joining the Union. Some encouraging progress has been achieved in recent months, notably the adoption of the constitutional amendment on Brcko District and the adoption of the War Crimes Strategy and the implementation action plan for justice sector reform. This progress was made possible by the spirit of compromise and dialogue that was initiated last November at Prud. From the outset, the European Union and France have supported the Prud process, which should continue and indeed be extended. We urge all Bosnian political actors to become part of the process and to participate fully.

At the same time, the High Representative has drawn our attention to some worrying developments. The increase in nationalist rhetoric, and actions and statements challenging the underlying structure of the State — whether directed against the sovereignty and territorial integrity of Bosnia and Herzegovina or against the existence of the Republika Srpska — are matters of grave concern. The political situation continues to be marked by a continuing lack of trust among the leaders of the three constituent peoples, which gives rise to tension and hampers progress in the country. We therefore call on the Bosnia and Herzegovina leadership to cease opposition to change and to work towards compromise on the main issues. Only a constructive attitude on the part of all Bosnian political actors will make it possible to move forward on reforms that will open the way for an evolving international presence, along with reforms that arise from European partnership.

I wish to assure the High Representative of our confidence in him and of our full support as he works to ensure respect for the Dayton-Paris accords, to promote the reforms that the country needs and to complete the transition from the Office of the High Representative to a European Union special representative with a strengthened mandate.

It is time to open a new chapter in the country's history, which requires that the objectives and conditions established by the Peace Implementation Council for the transition be fully met. Important progress remains to be accomplished to achieve that crucial stage. Notwithstanding the measures that still have to be taken, I would especially like to emphasize the urgency of overcoming the delay in the inventory and apportionment of State property. That is an essential point upon which we await progress over the coming weeks.

France supports the aspiration of the Bosnian people to rejoin the European Union. The future of Bosnia and Herzegovina and that of all the countries of the Western Balkans lies in Europe; that is the key to the stability of the region, to anchoring democracy in the region and bringing about its future prosperity, as the President of the French Republic, Nicolas Sarkozy, has stressed on several occasions in recent months. The High Representative referred to the joint meeting of the Czech, Swedish and French Foreign Ministers in April and to the visit of Javier Solana a few days ago, confirming the constancy of European Union commitment towards Bosnia and Herzegovina and its confidence with regard to its European future. Europe remains committed through the EUFOR-Altea operation and the European Union's police mission.

The course set is clear, but the tempo of Bosnia and Herzegovina's rapprochement with Europe depends on the country itself. The international community can help the Bosnian leaders to achieve that, and that is something towards which the High Representative is working energetically, but it cannot substitute for the efforts of Bosnia and Herzegovina. Bernard Kouchner has emphasized that there is no magic wand. It is for the Bosnians and their leaders, first and foremost, to be the actors in the reforms the country needs. That is work for a united Bosnia and Herzegovina that can be thoroughly integrated into the European Union.

Mr. Vilović (Croatia): Allow me first to extend our welcome to His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, and thank him for his statement. We also wish to welcome the High Representative and Special Representative of the European Union (EU), His Excellency Mr. Valentin Inzko, and to thank him for his briefing today, his first in his new role. I wish to assure him of Croatia's full support in his new position and wish him every success in fulfilling his mandate.

Croatia aligns itself with the statement to be delivered by the Czech Republic on behalf of the European Union. Here, I wish to make some additional comments.

In December 2008, when the Council was discussing the situation in Bosnia and Herzegovina with the then-High Representative, Miroslav Lajčák (6033rd meeting), we warned that despite some important progress that enabled Bosnia and Herzegovina to sign the Stabilization and Association Agreement with the European Union on 16 June 2008 — which was Bosnia and Herzegovina's first contractual relationship with the European Union — the situation in that country had slid under the radar and that new focus on the part of the international community was urgently needed.

Today we note that the report (S/2009/246) informs us that limited progress has been achieved in the implementation of reforms in Bosnia and Herzegovina, including those necessary for transition from the Office of the High Representative to the European office. We are concerned at the High Representative's assessment of the current situation in the country, where "anti-Dayton rhetoric challenging the sovereignty, territorial integrity and constitutional order ... has played the dominant role" in this reporting period, "despite an effort by the three political leaders to open a process of dialogue and compromise" (*ibid., annex, enclosure, summary, first paragraph*).

It has been our long-standing position that the impasse in Bosnia and Herzegovina can be overcome only through a comprehensive and inclusive dialogue that includes all three constituent peoples in the entire territory of the country. This is closely linked with the reforms needed to bring Bosnia and Herzegovina closer to the path of integration with the European Union and will also facilitate the fulfilment of the country's other international obligations. It is particularly important that the dialogue on constitutional reforms intensify under the reinvigorated and more focused guidance of the international community and with additional and firm support assured to the High Representative.

As we can see, Bosnia and Herzegovina is facing considerable problems. Some are challenging its very foundations as established by the Dayton Accords, especially territorial integrity, and can only have a detrimental effect on its future. However, by the same token, it should be stressed that any constructive engagement and any intention to improve the current situation and remedy the fundamental problems that support the territorial integrity of Bosnia and Herzegovina should be welcomed and encouraged.

On this point we wish to reiterate that the country's stability depends on respect for the equal rights of all three constituent peoples: Bosniacs, Bosnian Serbs and Bosnian Croats. We have stated on several occasions that there cannot be a Bosnia and Herzegovina without the Croats in Bosnia and

Herzegovina. Their political and cultural survival is vital for the future and survival of Bosnia and Herzegovina, as these two elements are closely intertwined.

One needs to keep in mind the particular situation of Croats in Bosnia and Herzegovina as the smallest and most vulnerable group of the country's three nations. Their voice must be considered on the basis of equality, both ethnic and civic, as guaranteed in the Constitution and as stemming from the history of the country. All three peoples — Bosniacs, Bosnian Serbs and Bosnian Croats — must feel that Bosnia and Herzegovina is their country, and they should feel safe and protected over its entire territory. Their fundamental rights and freedoms, as well as their civic and ethnic rights, should be protected throughout, as should be their right to return to their pre-war homes.

Another important factor in the normalization of the situation in Bosnia and Herzegovina is the fight against impunity for war crimes committed. We wish to stress that all fugitives from the International Criminal Tribunal for the Former Yugoslavia who are still at large must be arrested and transferred to The Hague as soon as possible.

Finally, Croatia has always supported the clear and unambiguous European perspective of Bosnia and Herzegovina. The future of all countries of Southeast Europe belongs in the European Union, and we will do our utmost to help our neighbours exercise this most beneficial option for their overall development. That is the biggest guarantee for sustainable peace, security and prosperity for all the countries and people of Southeast Europe.

Mr. Heller (Mexico) (*spoke in Spanish*): At the outset I wish to welcome Mr. Valentin Inzko, High Representative for Bosnia and Herzegovina and European Union Special Representative, and to thank him for his briefing. As this is the first time he is participating in a Security Council meeting since taking office, we wish him every success in carrying out the work entrusted to him. We also wish to welcome Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina. We very much appreciate his statement today.

In the almost 15 years since the signing of the Dayton Agreement Bosnia and Herzegovina has achieved significant progress on the difficult path towards national reconstruction and reconciliation. The citizens of the country, irrespective of their origin, are hoping for a future of stability, development and peace. That is why all the leaders of the country must redouble their efforts to ensure compliance with the pending commitments, maintain the path of dialogue and negotiation to settle disagreements and avoid actions that would imperil the stability and constitutional framework of the country. All that would be most acceptable to the international community.

The reforms that preceded the signing of the Stabilization Agreement with the European Union last June, the political accord signed in November by the leaders of the three communities and the reforms that made it possible for the Brcko District to be granted access to the constitutional court demonstrate that it is possible to achieve consensus on relevant topics and to promote an agenda of reform. Nevertheless, the High Representative notes that the political environment has obstructed the work of State institutions and has reduced the options for opening up the legislative agenda. In light of the foregoing, we appeal to all the parties to fully meet the five objectives and two conditions established for the transition from the Office of the High Representative to the European Union Representative, and we call upon them to cooperate fully with the High Representative.

We note with satisfaction the adoption of the National War Crimes Strategy and the implementation of action plans of the National Justice sector Reform Strategy. These are positive advances in enhancing cooperation with the International Criminal Tribunal for the Former Yugoslavia. In this regard, we would like to reiterate that all parties must continue to cooperate with the Tribunal in the effective discharging of its mandate and, in particular, provide any relevant information that would contribute to the arrest of the accused in the pending cases under its jurisdiction.

We are concerned that, over the past few months, a deterioration in freedom of expression has been noted, in particular through an increase in reports of incidents of aggression, death threats and other violations of the rights of journalists. The legal framework and the institutional structure must therefore be strengthened as regards the promotion of protection of human rights.

Another important aspect is compliance with annex 7 of the Peace Agreement, which concerns a strategy for the return of displaced persons and

refugees by supporting the reconstruction of housing and compensation for properties that cannot be restored to the original owners. The authorities of Bosnia and Herzegovina, with the support of the international community, must adopt the necessary measures to ensure the safe return of more than 100,000 displaced persons and refugees to their places of origin. This must be a central focus for national reconciliation efforts.

I would like to conclude by reiterating my country's support for the work of the High Representative and expressing the hope that Bosnia and Herzegovina will manage to overcome its differences and be able to build a democratic, multi-ethnic State, in which its citizens — along with those of the entire Balkan area — will enjoy a more stable and prosperous future as an integral part of Europe.

Mr. Du Xiacong (China) (*spoke in Chinese*): China thanks the High Representative, Mr. Inzko, for his briefing and appreciates his efforts to promote the political process in Bosnia and Herzegovina. I would also like to welcome His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, to today's meeting and to thank him for his statement.

In the past year Bosnia and Herzegovina has continued to take positive steps in the field of constitutional reform, the entrenchment of the rule of law and ethnic harmony. The political process in the country has continued to move ahead.

However, there are still destabilizing factors in Bosnia and Herzegovina. The situation remains fragile and sensitive. We express our concern in this regard. China respects the sovereignty and territorial integrity of Bosnia and Herzegovina. We sincerely hope that all parties will commit themselves to long-term peace and stability in Bosnia and Herzegovina and the entire Balkan region and cooperate in good faith in accordance with the Dayton Peace Agreement to advance the political process by making further progress in the fields of government- and institution-building, the reform of public administration, constitutional reform and the entrenchment of the rule of law, with a view to securing lasting peace, stability and prosperity in Bosnia and Herzegovina.

China is pleased to see the prospects for the gradual integration of Bosnia and Herzegovina into the European Union. We believe the High Representative should continue his in-depth consultation with all parties, as mandated by the Dayton Peace Agreement, and prompt the political entities within Bosnia and Herzegovina to take constructive measures and act in unity in the process of joining the European Union so as to make significant headway.

Meanwhile, we also welcome the important role that the European Union continues to play in the maintenance of security and stability in Bosnia and Herzegovina and in the advancement of economic and social development in that country.

China will continue to support the High Representative in his efforts to carry out his mandate and is ready to join the rest of the international community in providing the necessary assistance to Bosnia and Herzegovina in order to achieve lasting peace, stability and development in that country.

Mr. Bui The Giang (Viet Nam): I would like to start by congratulating Mr. Valentin Inzko for his assumption of his position as High Representative for Bosnia and Herzegovina and wishing him every success in his important work. We thank him for his comprehensive report (see S/2009/246) and insightful briefing before the Council today. We also welcome Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, to the Council and thank him for his statement.

My delegation has closely followed the situation in Bosnia and Herzegovina during the reporting period. We therefore welcome the positive developments that Mr. Inzko has identified in his report, most notably the adoption by the Bosnia and Herzegovina Parliamentary Assembly of an amendment that incorporates the Brcko District into the Bosnia and Herzegovina Constitution and ensures its access to the constitutional court of the country. We acknowledge the progress that the authorities in Bosnia and Herzegovina have recorded in an effort to meet the five objectives and two conditions set by the Steering Board of the Peace Implementation Council (PIC) to expedite the transition from the Office of the High Representative to the European Union (EU) Special Representative.

However, we are deeply concerned about the mounting divisive and nationalistic rhetoric that challenges the sovereignty and constitutional order of Bosnia and Herzegovina and the actions and statements by some key actors that challenge the authority of the High Representative and the PIC Steering Board.

Given the overall fragile political situation of the country, we are preoccupied by the attempts by certain circles to keep rolling back previous reforms and undermine existing State-level institutions.

While reiterating the full support of Viet Nam for the independence, sovereignty and territorial integrity of Bosnia and Herzegovina, we also note with concern the recent attempt made by a certain institution to seek the right to secession. This, in our view, really casts doubt on its announced commitment to the rule of law and impedes further progress towards the building of a secure and stable multi-ethnic State. It also contravenes the Dayton Peace Agreement, which states that no entity has the right to secede from Bosnia and Herzegovina.

In the light of the ongoing political tension, it is important for the major political parties in Bosnia and Herzegovina to show their flexibility and willingness to compromise so as to make real progress towards important political issues. There is also a need for Bosnian political leaders to translate the 8 November agreement into concrete actions, including by addressing the integration of those displaced persons who cannot return and the issue of compensation for property that cannot be restored to owners. All that is even more essential in anticipation of next year's elections and potential ensuing problems, such as possible heightened nationalistic rhetoric and reduced space for compromise, to name just two.

Finally, we commend and support the important role of the High Representative in facilitating the implementation of the Dayton Accords and the adoption of the individual requirements set forth in the EU Partnership and its Stabilization and Association Agreement. Viet Nam remains fully committed to supporting the genuine common efforts of the international community contributing to building a secure, democratic and stable multiethnic State in Bosnia and Herzegovina.

Mr. Kafando (Burkina Faso) (*spoke in French*): I should first like to welcome the presence here today of Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, whom we would also like to thank for his important statement. I should also like to thank Mr. Valentin Inzko, who has just assumed his new functions as High Representative for Bosnia and Herzegovina and Special Representative of the European Union, for introducing his report. We wish him every success in his office.

We would also like to welcome the progress that has been made in Bosnia and Herzegovina, in particular since the signing of the Prud Agreement. That reflects the willingness of political leaders to reach compromise, in particular in the area of constitutional and budgetary reform.

We nevertheless deplore certain extreme nationalistic attitudes, which could jeopardize the ongoing political momentum and even the very foundations of the State. My country therefore strongly supports every effort aimed at fully implementing the Dayton Agreement, as well as the steps taken to improve the functioning of State institutions. We urge all political actors to work to safeguard the territorial integrity of the country and to provide a secure and stable democratic future for their citizens.

Moreover, it should be possible to find a just solution to the issue of apportioning public goods between the State and the various entities. We are encouraged to note that the Council of Ministers has already begun that process.

We are concerned by the difficult economic situation in the country, which has been exacerbated by the world economic and financial crisis, whose effects threaten to undermine a political process that is already fragile as a result of political tensions. It is also urgent to increase economic integration among the country's main groups.

As we urge the international community to extend its technical and financial support to Bosnia and Herzegovina, we also call on the country's political leaders to facilitate the reforms necessary to improve good governance and the country's institutional capacity.

We welcome the efforts that have been made to entrench the rule of law, in particular the adoption, on 29 December 2008, of the Bosnia and Herzegovina War Crimes Strategy, as well as the implementation of the National Justice Sector Reform Strategy. Those developments should have an impact on cooperation with the International Criminal Tribunal for the Former Yugoslavia and, eventually, on dealing with various issues as the Tribunal concludes its work.

There are also other reforms under way that will have an impact in the economic, public administration

and defence sectors. We hope that the problems encountered in that regard will be speedily resolved so that the country can resolutely embark upon European integration and open itself up to even greater prospects.

Bosnia and Herzegovina must also make altogether more meaningful progress in respecting international human rights standards and press freedoms and in the treatment of refugees and minorities. Integration into European and international institutions will depend upon improvements in that regard.

In an unpredictable environment such as that in Bosnia and Herzegovina, cooperation with NATO and its Stabilization Force (SFOR), as well as between SFOR and European police, have been of crucial importance not only in properly implementing reforms in the defence and security sectors, but also and above all in ensuring national security. Given the many challenges that remain to be overcome, it is essential that the international community, including the Security Council, continue to support Bosnia and Herzegovina along the path of recovery and national reconstruction.

Ms. DiCarlo (United States of America): I would like to welcome back to the Council Prime Minister Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, and to thank him for his comments today. I would also like to welcome High Representative Inzko and congratulate him on the assumption of his position. Let me take this opportunity to thank the High Representative and his staff for their hard work and dedication.

The United States is a friend of Bosnia and Herzegovina and supports the aspirations of the Bosnian people to enter Euro-Atlantic institutions. Our support was demonstrated by the joint visit this month of Vice President Biden and European Union High Representative Solana. When he addressed the Parliamentary Assembly of Bosnia and Herzegovina on 19 May, Vice President Biden expressed our commitment to assist the Bosnian people to achieve their dream. He also expressed our strong support for the Office of the High Representative. We reiterate those pledges today.

A good deal of progress has been made in Bosnia and Herzegovina since the conflicts of the 1990s. Prime Minister Špirić cited several examples today. But we do remain deeply concerned about the situation there. As the High Representative's report (see S/2009/246) makes clear, some leaders and political parties still pursue narrow ethnic interests and still espouse zero-sum nationalism. By doing so, they continue to impede progress on urgently needed reforms that would help all of the country's citizens.

Regrettably, we also continue to hear divisive rhetoric. Those who purvey it seek to challenge the High Representative's authorities, which have been confirmed by the Security Council, and even to threaten Bosnia and Herzegovina's sovereignty and territorial integrity, which is enshrined in the Dayton Peace Agreement. We are also witnessing efforts to undermine the very State institutions that must be strengthened if Bosnia and Herzegovina is to meet the challenges of modern statehood and advance towards membership in NATO and the European Union.

Let me cite one particularly egregious example — the 14 May conclusions of the Republika Srpska National Assembly, which falsely asserted that many of the authorities of the State of Bosnia and Herzegovina, including those explicitly granted by the Dayton Constitution, were somehow illegally obtained. As my Government noted when the Council met last December to discuss this issue, and as Vice President Biden said in his recent address to the Bosnian Parliamentary Assembly, the United States will stand behind the Office of the High Representative so long as it remains in Bosnia and Herzegovina. We will support the transition of the High Representative's Office to a European Union special representative once the five objectives and the two conditions of the agreed upon reform agenda have been completed. The Peace Implementation Council will consider statements and actions that serve to undermine the Bosnian State when it gauges whether the criteria for closing the Office of the High Representative have been met.

Ambassador Inzko's report rightly highlights a bright spot that has been seen since our last meeting — the enactment in March of the first amendment to the Dayton Constitution to protect the multi-ethnic nature of the Brcko District. The efforts that led to that amendment, which grew out of the Prud process, offer some cause for optimism, but while moving ahead with additional reforms. We hope that this initiative will translate as quickly as possible into actions that meet the outstanding 5+2 requirements set by the Peace Implementation Council.

The United States remains fully committed to peace and stability in Bosnia and Herzegovina, based on Dayton. We are also entirely committed to supporting reforms that will allow that country to achieve its aspirations for greater integration into the structures of Europe and the Atlantic alliance. We urge all Bosnian leaders to abandon the divisive nationalist politics that have brought such suffering and sorrow in the recent past, and we urge them to work across ethnic lines towards the reforms required to advance the goals that the people of Bosnia and Herzegovina share.

Sir John Sawers (United Kingdom): I join others in welcoming Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina, to our Council today, and thank him for his remarks. I should like also to join others in welcoming the new High Representative, Mr. Inzko, to the Security Council for the first time, and thank him for his report and briefing on the latest developments in Bosnia and Herzegovina, which, if I may say so, were admirably clear.

We note from the High Representative's report that there has been some progress against the five objectives and two conditions set by the Steering Board of the Peace Implementation Council (PIC) that, of course, have to be met ahead of the closure of the Office of the High Representative. The resolution of the Brcko Final Award, the adoption of the National War Crimes Strategy and the implementation of the National Justice Sector Reform Strategy are all welcome developments.

But overall, despite this, progress is slow. I am afraid it is too slow. Despite the signing of the Stabilization and Association Agreement last year, we remain concerned about the serious nature of the situation in Bosnia and Herzegovina. There have been a few signs of flexibility and compromise from some of the Bosnian leaders, notably developments in the Prud process. However, overall progress on reform has been disappointing. There are several areas where progress is badly needed and could easily be achieved if there were the necessary political will. I am thinking of such areas as visa liberalization, banking supervision, public procurement and State and defence property.

At this pace and in this atmosphere, it seems unlikely that the five objectives and two conditions can be met in time for a positive decision at next month's meeting of the Steering Board of the PIC. I hope that the leaders of Bosnia and Herzegovina understand that we are not going to negotiate on the five plus two conditionality. As the PIC Steering Board agreed in March, it is vital that all the five objectives be met and that the two conditions be fulfilled before we move to close the Office of the High Representative, and we would like to achieve that as soon as possible.

We appreciate the High Representative's efforts on facilitating progress against the remaining two objectives, and we are encouraged that the issues of State and defence property have seen some movement. We would ask the High Representative to continue his efforts. Mr. Inzko is representing the entire international community, and he has our backing even when he is making difficult decisions. Recent dynamics in Bosnia and Herzegovina, marked by unhelpful nationalist rhetoric, are making it an even more difficult context for his work.

The United Kingdom strongly supports Bosnia and Herzegovina's European perspective. We are determined to work with Bosnia and Herzegovina as partners, wherever possible, so that it can take its rightful place in Europe, along with other countries of the region. But if Bosnia and Herzegovina is to make decisive progress down the path to integration with the European Union (EU) and NATO — goals that Mr. Špirić set out again today — the political culture in Bosnia and Herzegovina needs to change. The country's leaders must take opportunities to seek common ground and recognize that ethnic maximalism only leads to deadlock and the failure to achieve collective aspirations.

Lastly, I wish to say just a word on the European Union. We are continuing to plan carefully for the EU presence after the Office of the High Representative is brought to an end. We shall need a robust mandate for that so that we are in the best possible position when the moment for transition arrives. I am encouraged by the progress that we have seen so far on the draft mandate. It is worth noting that the EU Special Representative will be the central point for the international community's engagement in Bosnia and Herzegovina, but I would also note that the continued participation of non-EU partners would help to strengthen its role.

Mr. Rugunda (Uganda): I welcome His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers

of Bosnia and Herzegovina, and thank him for his statement. I also welcome Ambassador Valentin Inzko, High Representative and European Union (EU) Special Representative for Bosnia and Herzegovina, and thank him for his briefing.

We are encouraged by the progress that has been achieved towards meeting the requirements set by the Peace Implementation Council Steering Board for the transition from the Office of the High Representative to the EU Special Representative, particularly the adoption of a constitutional amendment incorporating Brcko District into the Constitution of Bosnia and Herzegovina. We welcome the progress that has been achieved in the area of entrenchment of the rule of law and acknowledge the efforts of the Bosnian authorities to establish the new State-level police bodies, as provided for in the police reform laws.

We note with appreciation that the European Union military mission (EUFOR) continues to play an important role in the overall security situation, in cooperation with local law enforcement agencies. We commend EUFOR for its support to the International Tribunal for the Former Yugoslavia and its cooperation with the Bosnian authorities on joint military affairs.

Uganda commends the High Representative for his efforts in facilitating implementation of the Peace Agreement. We urge all parties, including neighbours of Bosnia and Herzegovina, to uphold their commitments to the territorial integrity and sovereignty of Bosnia and Herzegovina in the spirit of good-neighbourliness and peaceful coexistence, as enshrined in the United Nations Charter.

We have noted the economic challenges facing Bosnia and Herzegovina, as reflected in the report. In particular, we are concerned about the funding deficit that has impeded the Government's capacity to cover its obligations. In addition, we are concerned about the registered unemployment rate, which was 41 per cent in late 2008 and appears to be rising. We call upon the authorities of Bosnia and Herzegovina to focus, with support from their international partners, on addressing this issue, which has serious implications for the stability of the country.

Finally, we are concerned about the situation of refugees and displaced persons. We call on the authorities to address their plight with a view to ensuring their early return and resettlement.

The President (*spoke in Russian*): I shall now make a statement in my capacity as representative of the Russian Federation.

We welcome the participation in today's meeting of the Security Council of Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina. We listened carefully to his assessment of the current situation in his country.

We thank Mr. Valentin Inzko, High Representative for Bosnia and Herzegovina, for the report (see S/2009/246) submitted to the Security Council on the development of events in that country. At the same time, we cannot agree with its overall tenor. The leitmotif of that document is one of persisting tension in Bosnia and Herzegovina and the inability of the Bosnian authorities to meet the challenges facing the country on their own. In our opinion, this assessment is not objective.

The report is unwarranted in relegating to the background an analysis of the dialogue among the three leading national political parties of the country, which — a fundamentally important factor — was launched at their own initiative. We feel that this trend is the most important in the period covered by the High Representative's report. Thanks to the constructive disposition of the three, breakthroughs have been achieved, including passage of the national budget through Parliament at record speed. The adoption for the first time of an amendment to Bosnia and Herzegovina's Dayton-mandated Constitution, definitively enshrining the status of the Brcko District pursuant to the Award of the Arbitral Tribunal, is a key indicator of the potential of the three to identify and implement compromise solutions.

Incidentally, the substantial progress registered recently in Bosnia and Herzegovina in the stabilization of the situation and the implementation of the Peace Agreement is graphically illustrated in the report of the Government of the Republika Srpska on the situation in Bosnia and Herzegovina. I note that, in February this year, the leadership of Republika Srpska brought that report to the attention of the members of the Security Council.

Too much attention is given in the report of the High Representative to harsh rhetoric, using descriptions such as "nationalistic" and "anti-Dayton", and in the process all the blame for it is placed on the Prime Minister of the Republika Srpska, Mr. Dodik.

Indeed he is sometimes wont to be outspoken, reacting to the unremitting attacks on the Dayton constitutional status of the Republika Srpska and persistent attempts to abolish it, particularly by the Bosniac leader, Mr. Siladjič. At the same time, the Serbian entity's leadership is not taking real actions that would run counter to Dayton. Furthermore, the Republika Srpska itself — if one considers its political, economic and social situation — is a factor of stability in Bosnia and Herzegovina, unlike the Federation. The report does not take account of this important aspect and emphasizes outside appearances.

We appeal to the High Representative to work closely with the leaders of the leading political parties in Bosnia and Herzegovina so that at the meeting of the Steering Board of the Peace Implementation Council (PIC) at the end of June in Sarajevo they can adopt a joint statement on commitment to Dayton and unconditional respect for its provisions. Such a step would shift the focus of the Bosnian parties away from sterile polemics towards the working out and implementation of specific steps to resolve the pressing financial and economic problems that Bosnia and Herzegovina is facing, which the High Representative rightly referred to in his report.

On the whole, we have developed the impression that the High Representative apparatus is largely operating by inertia and is not taking sufficient account of the fundamentally new trends that have become clearly apparent in Bosnia and Herzegovina in recent months. We expect Mr. Inzko to bring to the activities of his office more objectivity and impartiality and direct it towards the future.

Qualitative changes in the situation in Bosnia and Herzegovina have objectively increased the need for reforming the international presences in the country. Specifically, we are thinking of prompt implementation of the 5+2 formula adopted by the PIC Steering Board, that is, to resolve the only outstanding question of State property. We expect that by June of this year the Bosnian parties will have achieved agreement on the problems pertaining to military property. By the end of September, the process for apportioning State property among the different levels of authority will, on the whole, be completed. That will make it possible for the PIC Steering Board to take, no later than October, a definitive decision on the schedule for turning the High Representative apparatus into a Special Representative mission of the European Union.

We are ready for close interaction with the High Representative, all interested partners in the international community and the Bosnian parties in completing these tasks.

I now resume my function as President of the Security Council.

I now give the floor to the representative of Serbia.

Mr. Kruljević (Serbia): At the outset, I would like to express my respect for His Excellency Mr. Valentin Inzko, High Representative for Bosnia and Herzegovina, and His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina. I read very carefully the latest report of the High Representative contained in document S/2009/246 and listened to the statements made in the Council today.

As a neighbouring country and one of the guarantors of the Dayton Peace Agreement, Serbia continues to be committed to full respect for the Agreement as a basis for stability in Bosnia and Herzegovina and the whole region of the Western Balkans. My country fully respects Bosnia and Herzegovina as a sovereign State, with its two entities and three constituent nations.

One of Serbia's foreign policy priorities is development of good-neighbourly relations and a strong commitment to regional stability in the Western Balkans. Serbia is working actively to promote the stability of the entire region and considers respect for the territorial integrity and sovereignty of all States to be of vital importance in that regard.

Regional cooperation is a way to resolve differences through dialogue, not confrontation. We therefore support the participation of all United Nations Member States in Southeastern Europe in various regional projects and initiatives. We also welcome the continued participation of the United Nations Interim Administration Mission in Kosovo on behalf of our southern province of Kosovo and Metohija, in accordance with Council resolution 1244 (1999). Europe has become a regional unifying force. All of us share the same dedication to join the European Union. It is Serbia's central strategic priority.

As a signatory of the Dayton Agreement, Serbia fully respects its obligations and firmly believes that its consecutive implementation and strict compliance with

its provisions are of paramount importance. It is our view that the relations between the three constituent nations in Bosnia and Herzegovina should be dealt with by the international community with due attention and mutual respect. Any reform should be carried out in a way that it could contribute to Bosnia's path towards integration in the European Union.

Serbia supports all efforts towards stability, democracy and the social and economic prosperity of Bosnia and Herzegovina and welcomes all decisions and solutions that are the result of a democratic agreement between its three constituent nations — Serbs, Bosniacs and Croats.

I would also like to reiterate the importance of the commitment of all countries in the region to the universal values in the areas of the rule of law and human rights, as well as to respect for the Charter of the United Nations and the fundamental principles of international law. It is our firm belief that all those who perpetrated heinous crimes during the tragic conflict in our region must be brought to justice and that that is the moral and political duty of all countries that have been affected. Serbia continues to make efforts in that regard and towards full cooperation with International Criminal Tribunal for the Former Yugoslavia.

The President (*spoke in Russian*): I now give the floor to the representative of the Czech Republic.

Mr. Palouš (Czech Republic): I have the honour to speak on behalf of European Union (EU). The candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia, the countries of the Stabilisation and Association Process and potential candidates Albania and Montenegro, as well as Ukraine, the Republic of Moldova, Armenia and Georgia align themselves with this statement.

Let me start by welcoming the presence of His Excellency Mr. Valentin Inzko in his capacity of High Representative and Special Representative of the European Union and thanking him for his report (see S/2009/246) and briefing on the latest developments in Bosnia and Herzegovina. I would also like to welcome His Excellency Mr. Nikola Špirić, Chairman of the Council of Ministers of Bosnia and Herzegovina.

Since the signing of the Stabilisation and Association Agreement between Bosnia and Herzegovina and the European Union a year ago, some progress has been made by Bosnia and Herzegovina. The European Union welcomes the adoption of an amendment to the Bosnia and Herzegovina Constitution providing Brcko District with access to the Bosnia and Herzegovina Constitutional Court. Further reform priorities, such as the National Justice Sector Reform Strategy, continue to be implemented. The National War Crimes Strategy was adopted in December 2008. The European Union also welcomes the provisional agreement between Bosnia and Herzegovina and the International Monetary Fund (IMF). We hope that the conditions set by the IMF will be implemented in a constructive manner and without delay, and that Bosnia and Herzegovina's authorities will take all necessary and effective measures to counter the repercussions of the global economic and financial crisis.

Despite some positive developments, many challenges remain. Nationalist, anti-Dayton rhetoric challenging the sovereignty, territorial integrity and constitutional order of Bosnia and Herzegovina undermines efforts of its political leaders to find common language and compromise. State institutions have made inadequate progress in relation to European Union reforms. Therefore, we call upon local political leaders to engage thoroughly and with stronger determination on the reform agenda in order for the country to make substantial progress towards EU accession. Membership in the EU of Bosnia and Herzegovina as a single and integral State remains the ultimate goal, which will serve the stability, reconciliation and the future not only of that country, but also of the whole region of the Western Balkans.

The European Union fully supports and is ready for the transition from the Office of the High Representative to the reinforced Office of the EU Special Representative, which includes increasing local ownership after the five objectives and two conditions set by the Peace Implementation Council Steering Board are met in full. We urge the Bosnia and Herzegovina authorities to maximize efforts to deliver the remaining objectives — the acceptable and sustainable solution to the state and defence property issues — and to achieve full compliance with the second condition: a positive assessment of the situation in Bosnia and Herzegovina based on full compliance with the Dayton Peace Agreement.

We also consider the full cooperation of Bosnia and Herzegovina with the International Criminal Tribunal for the Former Yugoslavia to be a priority, as

well as an important element in the country's association process with the European Union, in line with international law and relevant Security Council resolutions.

The European Union is actively involved in promoting stability in the whole Western Balkans region. The security situation in Bosnia and Herzegovina remains stable. EU-led police and military missions continue to provide reassurance and play an important stabilization role in the country.

The European Union remains committed to assisting Bosnia and Herzegovina to reach its ultimate goal of full integration into European structures. We fully support the work of the High Representative and EU Special Representative, Mr. Valentin Inzko, and his Office — and of Mr. Miroslav Lajčák before him — in their endeavours to help Bosnia and Herzegovina on the path towards European Union integration.

The President (*spoke in Russian*): I give the floor to Mr. Inzko to respond to the questions and comments raised.

Mr. Inzko: I wish to cordially thank you, Sir, and everybody for their support and for all of their input, ideas, suggestions, analysis and kind words of welcome to me in my new function. I also thank Council members for their offers to continuously cooperate with me and with my Office.

I also thank the Council for its support on the ground in Bosnia and Herzegovina, in the Peace Implementation Council, the Contact Group, the European Union military mission, the police mission and other configurations, including past European Union presidencies, the current Czech Presidency and the future presidencies of Sweden and Spain. I also thank all neighbouring States for their support.

As far as the statement of Prime Minister Špirić is concerned, two sentences caught my attention. First, Mr. Špirić said that imposing a system of governance by international organizations would not be legally valid. Secondly, he said that democracy and the rule of law cannot develop if principles of democracy and the rule of law are not observed by the international community.

Those are quite serious allegations, but believe me, I do not take it personally because I have been in Bosnia for only two months. But I must protect my predecessors — Carl Bildt, Carlos Westendorp, Wolfgang Petritsch, Lord Ashdown, Christian Schwarz-Schilling and Miroslav Lajčák — who did an excellent job based on the Dayton Peace Agreement and on the decisions of the Security Council, which gave full support to the implementation of the Dayton Peace Agreement. In that respect, I will not accept any challenges to the Dayton Agreement and I think this should stop. It is exactly such rhetoric and such allegations that have delayed the closure of the Office of the High Representative.

In any case, I am still optimistic and I think that based on the next meetings of the Peace Implementation Council at the end of June and in October, we will be able to report further progress.

The President (*spoke in Russian*): I thank Mr. Inzko for the clarifications he has provided.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 12.05 p.m.

United Nations S/PV.6131

Security Council

Sixty-fourth year

Provisional

6131st meeting

Thursday, 28 May 2009, 3 p.m.
New York

President:	Mr. Churkin	(Russian Federation)
Members:	Austria	Mr. Mayr-Harting
	Burkina Faso	Mr. Kafando
	China	Mr. Du Xiaocong
	Costa Rica	Mr. Urbina
	Croatia	Mr. Vilović
	France	Mr. Ripert
	Japan	Mr. Kimura
	Libyan Arab Jamahiriya	Mr. Dabbashi
	Mexico	Mr. Heller
	Turkey	Mr. Çorman
	Uganda	Mr. Rugunda
	United Kingdom of Great Britain and Northern Ireland	Sir John Sawers
	United States of America	Ms. Rice
	Viet Nam	Mr. Hoang Chi Trung

Agenda

Security Council mission

Briefing by Security Council mission to Africa (14 to 21 May 2009)

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09-35198 (E)

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The meeting was called to order at 3.10 p.m.

Adoption of the agenda

The agenda was adopted.

Security Council mission

Briefing by Security Council mission to Africa (14 to 21 May 2009)

The President (*spoke in Russian*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

At today's meeting, the Council will hear briefings by the four ambassadors who led the Security Council mission to Africa: His Excellency Sir John Sawers, Permanent Representative of the United Kingdom, and His Excellency Mr. Ruhakana Rugunda, Permanent Representative of Uganda, who together headed the mission to Ethiopia in connection with the African Union and to the Great Lakes region in connection with Rwanda; His Excellency Mr. Jean-Maurice Ripert, Permanent Representative of France, who led the mission to the Great Lakes region in connection with the Democratic Republic of the Congo; and Her Excellency Ms. Susan Rice, Permanent Representative of the United States of America, who led the mission to Liberia.

I would like to welcome the return of the members of the Council and the Secretariat who took part in the mission to Africa.

I now give the floor to Mr. Ruhakana Rugunda, in his capacity as joint leader of the mission to Ethiopia in connection with the African Union.

Mr. Rugunda (Uganda): It is a pleasure for me to report on the leg of the Security Council mission to Africa that covered the meetings at the African Union Commission in Addis Ababa. It was a pleasure for me to co-lead that segment with my colleague, Ambassador John Sawers, Permanent Representative of the United Kingdom.

The visit by members of the Security Council to the African Union (AU) in Addis Ababa was within the framework of cooperation between the Security Council and the African Union under Chapter VIII of the Charter of the United Nations. The meeting, which was the third between the two bodies, reviewed the situation in Sudan and Somalia, the resurgence of unconstitutional changes of government and the financing of peacekeeping operations in Africa. The meeting was co-chaired by the Permanent Representative of Burundi to the AU, who is also the Chairperson of the AU Peace and Security Council; my colleague, the Permanent Representative of the United Kingdom; and myself.

On the situation in the Sudan, the meeting noted that the African Union-United Nations Hybrid Operation in Darfur (UNAMID), as a hybrid mission between the African Union and the United Nations, was a concrete expression of the commitment of the two organizations to work closely together. The members of the Council expressed concern at the humanitarian situation in the Sudan. It was noted that the Sudan was now entering a critical phase, with elections planned for 2010 and a referendum for 2011. As such, the Sudanese parties should be strongly encouraged to overcome any obstacles to the full implementation of the Comprehensive Peace Agreement.

On Somalia, the meeting noted that, while there had been some progress on the political front, the security situation remained precarious. The meeting reaffirmed that the Djibouti Agreement represented the basis for the resolution of the conflict in Somalia and stressed the importance of broad-based and representative institutions established through a political process that was ultimately inclusive of all. The meeting commended the African Union Mission in Somalia (AMISOM) for its contribution to peace and security in Somalia and underscored the need for the strengthening of AMISOM and the effective development of the Transitional Federal Government's security forces.

Turning to the question of unconstitutional changes of government in Africa, the meeting welcomed the adoption by the Security Council of a presidential statement (S/PRTST/2009/11) on 5 May 2009. The statement expresses concern about the resurgence of unconstitutional changes of government in a few African countries and welcomes the preventive measures undertaken by the African Union and subregional organizations against unconstitutional changes of government.

On the financing of peacekeeping operations in Africa, the members of the Council underlined the

importance the Council attaches support for the development of African capacity in peacekeeping, as demonstrated by the support package being developed for AMISOM. Both bodies look forward to the report to be submitted by the Secretary-General in September 2009 in accordance with the Council's presidential statement (S/PRST/2009/3) of 18 March 2009, as well as to the AU's input in that report.

While in Addis Ababa the members of the Council also met with Mr. Ping, Chairperson of the African Union, as well as with Ambassador Lamamra, the Commissioner for Peace and Security. The members of the Council also met with His Excellency Mr. Meles Zenawi, Prime Minister of Ethiopia, and discussed the peace and security situation in the region. In addition, the members of the Security Council also met with former President Olusegun Obasanjo, Speciai Envoy of the Secretary-General on the Great Lakes region, with regard to the situation in eastern Democratic Republic of the Congo and in the Great Lakes region. I believe that my colleague the Permanent Representative of France, who led the leg of the mission to the Democratic Republic of the Congo, will say something about that.

The conclusion that can be drawn from the visit to the AU is that the meetings between the two bodies are useful in strengthening cooperation, in particular in the prevention and resolution of conflicts, peacekeeping and peacebuilding, including the promotion of human rights, democracy and the rule of law and the constitutional order in Africa. In order to facilitate closer cooperation and the desired partnership, the two bodies should work closely together to agree upon the optimal modalities for the organization of their future consultations, including their next consultative meeting, which is due to be held in New York in 2010 on a date to be agreed upon.

The President (*spoke in Russian*): I now give the floor to His Excellency Sir John Sawers in his capacity as joint leader of the mission to the Great Lakes region, in connection with the Council's visit to Rwanda.

Sir John Sawers (United Kingdom): Ambassador Rugunda has given a good account of our discussions with the African Union (AU). As the co-leader of that leg, I should like to add two thoughts.

First of all, the substance of our discussions with the African Union, in particular on the situations in the Sudan and Somalia, demonstrated the depth of the relationship between the United Nations and the African Union and the ways in which it is becoming more substantive. We are seeing the United Nations and the AU working together to tackle the crises in Darfur, where we have the first joint United Nations-AU hybrid peacekeeping operation — which has its problems, of which we are aware, but which shows the United Nations and the AU working together — and in Somalia, where the United Nations is funding logistical support for the African Union Mission in Somalia (AMISOM). Those issues are some of the most pressing on the Council's agenda. As Ambassador Rugunda has said, it is important that we reflect on the nature of our consultative exchanges with the African Union Peace and Security Council, in order that we get the most out of them, that the African Union partners get the most out of them and that we can make the best and most effective use of our joint operations and policies and our work together.

We travelled to Rwanda following our meetings in Ethiopia. Along with our visit to the Democratic Republic of the Congo, about which Ambassador Ripert will report, I think that was the tenth visit of the Security Council to the Great Lakes. That reflects the level of attention that the Council gives to resolving the ongoing problems in that region. It was, as ever, invaluable to see at first hand the situations we are dealing with.

There have of course been substantial changes since the Council was in the region in June 2008. There was relative calm at that time, a year ago. But that gave way, in the early autumn, to a crisis in the eastern Democratic Republic of the Congo, which continued until the end of the year. It was the decision in early 2009 by the Governments of both Rwanda and the Democratic Republic of the Congo to work together to address the shared problem of the Forces démocratiques de libération du Rwanda (FDLR) and the presence of other armed groups in the region that helped to reshape the political landscape. Our visit afforded us an opportunity to encourage both Governments to continue to reinforce their cooperation, as well as to see the effects of that improved regional dynamic on the ground.

We were all moved by our visit to the Kigali Genocide Museum, which gave us some sense of the continued resonance of the horrific events of 1994 on events today. We also made a brief but encouraging visit to the Mutobo rehabilitation camp, where we met

several hundred former FDLR combatants, many of whom had returned to Rwanda as a result of the joint operations between the Governments of the Democratic Republic of the Congo and Rwanda. The ex-combatants gave the impression of being relieved to be back home in Rwanda. Their stories of the misinformation circulating in the Congolese bush and their pleasant surprise at how positive their treatment was underlined the need for renewed focus on our efforts aimed at the demobilization and disarmament of rebel groups.

The highlight of our time in Rwanda was the frank and wide-ranging discussion with President Kagame. The Council set out its strong support for the rapprochement between his Government and that of President Kabila. We also encouraged President Kagame to further deepen the relationship, as we also did later with President Kabila.

President Kagame was encouraged by the progress made in the eastern Democratic Republic of the Congo in the past six months, and he hoped that the political, military and economic cooperation with the Democratic Republic of the Congo would continue. In President Kagame's view, the joint operations that they had carried out had had an impact on the root causes of the problems in the eastern Democratic Republic of the Congo. He supported that being maintained by regional actors and the international community, although he was not entirely confident that the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) would be able to play the sort of partnership role with the armed forces of that country that the Rwandan forces had played.

Nonetheless, we came away optimistic that the progress made in the normalization of relations between the Democratic Republic of the Congo and Rwanda could be sustained. We now need to ensure that the transformative potential of genuine cooperation can be realized and that it can provide a peace dividend for civilians across the region.

The President (*spoke in Russian*): I now give the floor to His Excellency Mr. Jean-Maurice Ripert, Permanent Representative of France, who led the mission to the Democratic Republic of the Congo.

Mr. Ripert (France) (*spoke in French*): I would first like to thank the Secretariat, the Security Council team, Mr. Alan Doss, Special Representative of the Secretary-General, his deputies and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) in general, as well as President Obasanjo's team, for organizing the Great Lakes leg of our visit. Given that a detailed account of all our visits and meetings will be included in the report to be distributed by the Council, I shall limit myself to a few observations. In addition to our talks in Rwanda, to which the Permanent Representative of the United Kingdom referred earlier, the Council delegation met with Mr. Obasanjo in Addis Ababa. That, too, has already been mentioned.

In Goma, we heard briefings on the reorganization of their forces by the leaders of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), officers of the Armed Forces of the Democratic Republic of the Congo (FARDC), leaders of the Congolese National Police, and representatives of non-governmental organizations. We also met the Governor of North Kivu and visited the HEAL Africa Hospital, which specializes in treating victims of sexual violence, before moving on to the MONUC camp in Kiwanja.

In Kinshasa, the Council delegation was received by President Kabila, the Congolese Prime Minister, accompanied by the top leaders of his Government, and the Presidents of the Senate and the National Assembly. We also met with members of Congolese civil society. The Special Representative of the Secretary-General and all the representatives of the United Nations agencies briefed us on their strategic working plan for MONUC's activities over the next few years and on the main activities of the United Nations system as a whole.

From all these talks, the members of the delegation learned the following fundamental lessons concerning the situation on the ground.

First, the situation in the Great Lakes region has improved considerably, particularly thanks to the rapprochement between Rwanda and the Democratic Republic of the Congo, as has already been noted. Presidents Kabila and Kagame both clearly expressed their intentions to continue along that path. Among other things, the Economic Community of the Great Lake Countries should be reactivated in order to allow the launch of regional economic projects. The Security Council encouraged that intention. President Obasanjo will pursue his good offices mission between the regional capitals. Moreover, the Security Council mission had the opportunity to express its unanimous support for the initiatives he has already taken and his outstanding work to promote convergence among the various parties.

Secondly, and more sadly, sexual violence remains far too widespread. We were able to see the pain it engenders during our visits to the female victims at the HEAL Africa Hospital. The Government of the Democratic Republic of the Congo has already taken some measures, including the adoption of a law on sexual violence, the establishment of an agency to combat all forms of violence, and the creation of funds to help women and promote child protection. The Democratic Republic of the Congo has already launched its fight against impunity, inter alia by involving the International Criminal Court, and we reaffirmed that it must remain a priority.

Armed groups and the FARDC must also cease all their abuses against the population, in particular sexual violence against women. Those who are guilty of violence or recruit children must be arrested. We conveyed that message very clearly to all the authorities we met, at every level. In particular, high-ranking FARDC officers, be they long-time members or newly integrated from rebel groups, must be arrested, tried and imprisoned if they are perpetrators. A new law on the police, which has been under consideration for two years, must finally be adopted.

Having discussed the matter among ourselves, on behalf of the Security Council I gave the highest authorities of the Democratic Republic of the Congo an initial list of the names of five leaders of the FARDC who have been convicted of sexual violence against a number of women currently being treated at the HEAL Africa Hospital. We asked the President and the Prime Minister, with MONUC's support, to arrest those five officers and bring them to trial publicly so as to begin restoring the confidence of the civil population.

Another element is security sector reform, which is of great importance in the Democratic Republic of the Congo, as it is in many post-conflict countries. In order to attain peace, various armed groups have been progressively integrated into the FARDC, but they are very difficult to control. The soldiers are poorly paid, when they are paid at all, poorly housed, poorly fed, poorly equipped and poorly trained. And yet, all the officers we met and MONUC assured us that when Congolese soldiers are treated properly and led effectively, they are very good fighters and fully accomplish their missions while respecting fundamental ethical criteria. We must therefore ensure that they are paid on a regular basis.

There must also be a mechanism preventing those responsible for serious rights violations from remaining in the armed forces, pursuant to the provisions of the relevant resolution. The international community must coordinate its assistance to the Congolese authorities in carrying out a broad training operation in the army and in reforming the police and the justice system in depth. The Council also insisted that Congolese democracy be further entrenched, notably through the organization of local elections. We understood that certain difficulties remain, in particular concerning the law on apportionment of constituencies, but that the elections should be held before next year.

MONUC remains indispensable on the ground. President Kabila and the members of his Government insisted that the reinforcements authorized under resolution 1843 (2008) be dispatched rapidly in order to support the FARDC in operations Kimia II and Rudia II against the Forces démocratiques de libération du Rwanda and the Lord's Resistance Army, respectively. Based on what we were told by the Special Representative of the Secretary-General, the 3,000 additional troops authorized should be deployed in June and July. Their contributors have already been identified as Egypt and Jordan.

MONUC has taken serious steps to implement resolution 1856 (2008). Our visit in particular to Kiwanja, where massacres have taken place, allowed us to take note of the measures adopted to better protect civilians. We met a joint protection team, and the officer in charge of the local MONUC unit briefed us on new rapid-reaction mechanisms involving the local population, thereby ensuring that MONUC and FARDC forces can intervene in less than 10 minutes once the alarum has been raised. Of course, that, for now, is limited to a very small area.

MONUC's mission is certainly very sensitive. Protecting civilians and supporting the FARDC in its fight against armed groups — which unfortunately continue to target civilians — can sometimes be counteractive. A strategic plan of action has been prepared by MONUC, identifying prospects and the conditions for a drawdown of MONUC in the medium term. President Kabila explicitly asked for it. Once the local elections are over, if the situation continues to stabilize, we can start to consider a drawdown of MONUC.

In conclusion, we noted in general that, over the past few months, the situation has been moving in the right direction. The Security Council will have to remain fully mobilized to support those developments. MONUC's implementation of its strategic plan of

action and the development of operation Kimia II require our attention.

The President (*spoke in Russian*): I now give the floor to Ms. Susan Rice, in her capacity as leader for the mission to Liberia.

Ms. Rice (United States of America): It was indeed an honour to lead the leg of the trip that went to Liberia. I want to begin by expressing publicly our gratitude to and admiration of Ellen Løj, the Special Representative of the Secretary-General, who, despite the most adverse circumstances — including our whole programme having to be scrapped at the last minute due to thunderstorms — had in her pocket a very well crafted plan B that enabled the Council mission nonetheless to have a successful visit to Liberia.

The purpose of our visit was to help reaffirm the Council's support for the Government and people of Liberia and for the efforts of the United Nations Mission in Liberia (UNMIL) to promote peace and security. We also sought to assess the capacity of Liberia's national security sector and to learn more about efforts to combat gender-based violence.

We met with the United Nations country team on the night of our arrival and the International Contact Group on Liberia, a group of ambassadors and representatives of international organizations who are empowered to support the Comprehensive Peace Agreement in Liberia. The group warned that peace and security in Liberia remain extremely fragile, largely because of the country's weak national security institutions, and that the justice and corrections systems are inadequate, all of which we had the opportunity to witness for ourselves on the following day.

On that next day, 20 May, we met with, in the first instance, an inspiring group of women: the Indian formed police unit, which is an all-female force that consists of women who are simultaneously samurai — who can use their bare hands to break bricks that are burning — and beautiful dancers and artists. That was quite impressive. This all-female police unit protects key installations in Monrovia, conducts joint patrols and mentors the unarmed Liberian National Police. The high visibility of this Indian formed police unit, we have learned, has helped motivate more Liberian women to apply for law enforcement jobs. In sum, we applauded that unique unit, and we hope that others will be inspired by it, as we were.

We then visited the Monrovia Central Prison and I think it is fair to say that we were shocked and concerned by the state of the older male wards there, which are remarkably congested, with limited sanitary facilities, far too many inmates crammed into too few spaces and not enough corrections officials. Several of the prisoners told us about the extraordinary length of their pre-trial detainment. And, according to Liberia's Minister of Justice, the prison does not always hold its captives. Indeed, a few days before we arrived, there was yet another jail break from that facility, involving more than 100 prisoners.

We then visited a training centre for former combatants, part of a United Nations-supported reintegration programme. About 375 predominantly female former combatants have benefited from this programme, which includes vocational training, adult literacy classes, business values training, computer literacy and health and HIV education.

The Security Council mission also had the opportunity to meet with representatives from the international business community in Liberia. Those individuals noted that a strong, stabilizing United Nations presence had helped sway their decision to invest in Liberia. We cautioned them not to grow too dependant on UNMIL, since eventually, obviously, it will have to be withdrawn. But it was interesting to witness representatives of the business community engaged in renewable energy technologies as well as in traditional sectors such as rubber and mining.

We met with UNMIL, of course, and its senior military and police commanders gave us a sober assessment of the security situation in Liberia. They characterized the overall situation as calm but unpredictable. They noted that demonstrations often turned violent. Crime, gangster activities, armed robberies and sexual violence remain widespread, and rape, as we heard repeatedly, is a particularly urgent challenge, with most reported victims under the age of 14 and some victims under the age of 2. UNMIL noted several potentially destabilizing events on the horizon — including the anticipated release of the final report of the Truth and Reconciliation Commission in June, the trial against former President Charles Taylor and Liberia's presidential and legislative elections in 2011 — that could stoke tensions and potentially be exploited by spoilers. They also informed us that more than 14,000 former Liberian soldiers and police personnel had not found alternative livelihoods since the end of the war.

At the Police Training Academy, we witnessed police recruits from the Emergency Response Unit engage in hostage rescue and law enforcement exercises. This Emergency Response Unit is meant to be a mobile armed force — an elite force within the police — to respond to large-scale internal security incidents. But of the 500 officers planned for this contingent only about 200 had been trained and vetted. The United Nations commanders also noted that the Armed Forces of Liberia, which comprise 2,000 vetted personnel trained by the United States, are progressing but are not expected to be fully operational until 2012.

Finally, towards the end of the day we met with Liberia's Truth and Reconciliation Commission, or at least three representatives of the Commission, who explained that they had identified up to 100,000 alleged perpetrators of crimes during the conflict. They had taken some 20,000 statements from witnesses and were planning a national conference on reconciliation. They warned of the potential for violence once their report is released, but affirmed that despite the risk of violence they would publicize their findings and recommendations unvarnished. They also argued against the easing of Security Council sanctions on named individuals under the Liberian sanctions regime, stressing that those individuals had been given the opportunity, and had been encouraged, to come before the Commission and share their experienced but had refused to do so, and that the maintenance of those sanctions was an important part of the effort to combat impunity.

Of course, the highlight of our visit was our meeting with President Ellen Johnson-Sirleaf and members of her Cabinet. The President noted that the past six years had brought continued progress towards national recovery and a consolidated peace, but that the country's security situation remained fragile and its challenges major. The President outlined the four elements of Liberia's poverty reduction strategy: peace and security; economic development; governance and the rule of law; and infrastructure and basic services. Her Ministers discussed the tenuous security situation and their efforts to establish viable national security forces and to establish the rule of law. Finally, the President also outlined the Government's efforts to reduce sexual violence against women and noted the economic potential of the country in the mineral, agricultural and forestry sectors.

In conclusion, we found that the Security Council, having urged the Government of Liberia to step up its efforts to assume full security responsibilities, had a substantial distance yet to go. UNMIL's presence remains of critical importance at present, but the Government needs to be supported and encouraged to take accelerated steps to build the security capacity of its police and army so that UNMIL can complete its mandate in a timely fashion.

The President (*spoke in Russian*): I thank Ambassador Rice for her briefing, which, among other things, aroused feelings of envy in those of us who were not able to take part in the mission.

On behalf of the Council, I should like to express appreciation to all of the members of the Security Council and the Secretariat who participated in the mission, which was very ably led by Ambassadors Rugunda, Sawers, Ripert and Rice, for the manner in which they discharged their important responsibilities on behalf of the Council.

Although there are no names on my list of speakers, I see that Ambassador Urbina is insisting on his right to take the floor, and I call upon him now.

Mr. Urbina (Costa Rica) (*spoke in Spanish*): As indicated in informal Council consultations, I should like to make a brief statement.

The existence of unwritten standards whose interpretation remains at the discretion of the Secretariat does not contribute to orderliness or productivity in the work of the Security Council. No Member of the Organization is unaware of how Costa Rica, as well as Jordan, Liechtenstein, Singapore and Switzerland — the so-called Small Five group — have worked to improve the Security Council and its methods of work. The circumstances that compel me to take the floor at this meeting relate to working methods, transparency in the decisions that affect the practical work of the Council and, in particular, the legal equality of the rights and obligations of Council members.

With regard to the recent Council mission to four African countries, I wish to comment briefly on two circumstances that, in our opinion, should be changed. The first relates to the right that every delegation should have to obtain the expertise it deems necessary to better carry out its work in the Council, and the second to the process of negotiating the terms of reference of the mission. In both cases, I am sorry to say, there are double standards vis-à-vis the members of the Council: the permanent members on the one hand and the elected members on the other.

I shall briefly describe the circumstances that lead to that conclusion. With all due prior notice, my delegation indicated to the Secretariat its interest in taking an expert on the mission, fully paying all expenses. Initially, the Secretariat replied that it could not agree to that request because the presence of our expert would diminish the space allocated to members of the press. We considered that argument unacceptable. The basic purpose of the Council missions is to contribute to the work of the Council, and it is the delegation that ensure the quality of the Council's work, not the press.

In a second instance, the same staff member also rejected the inclusion of our expert and those of at least two other delegations that wanted to take experts, invoking an unwritten rule according to which only the heads of delegation for each of the visited countries would have the right to bring in experts and would, of course, have to cover the costs involved.

Given the rationale provided for the second response, my delegation and the other two interested delegations agreed not to take our experts. Nevertheless, to our surprise, during the mission to Africa, we were able to note the presence of security officers for a specific delegation. In order to avoid a misunderstanding and unnecessary discussion, I would like to say that my delegation understands the need for some delegations to take security staff on Council missions. Not only do we understand that necessity, but we support the inclusion of such security personnel in the travelling group. We also understand the need for members of the media to accompany us. What we do not understand is the exclusion of experts of missions that work in the Council. What we find unacceptable is the denial of room for experts while there seem to be no apparent restrictions on security staff and journalists, or worse yet, that they participate at the discretion of the Secretariat. Again, the quality and the work of the Council are ensured by the delegations, not by security personnel or members of the press. All discrimination in that respect should cease.

The second issue on which I would like to comment has to do with the double standards, again, applied by the Secretariat to the members of the Council. As the Council knows, my delegation led the mission to Haiti this year. The preparation for that mission required intensive work by my delegation, with unwavering support from the Secretariat, for which we are grateful. They resulted in a transparent process of early negotiation of the terms of reference, which were agreed upon by all the delegations through broad participation and with adequate time for discussion. In our view, all missions of the Council should be prepared in this fashion.

But that was not the case for Africa. For that mission, some of the terms of reference were adopted very shortly before the departure date and, although most of the suggestions were ultimately accepted, the process did not benefit from the transparency or the necessary time for reflection enjoyed by the earlier mission.

The two situations to which I have referred arose because both were ruled by unwritten regulations that can be interpreted arbitrarily, to say the least. That should end. The Council should adopt clear standards guiding everything related to Council missions. In order to help the work of the Council and the establishment of objective rules that will enable all of us to grasp the situation, my delegation will address a letter to the President of the Informal Working Group on Documentation and Other Procedural Questions so that the Working Group can prepare a set of standards to be circulated to the members.

The President (*spoke in Russian*): As President of the Council, I am obliged to note the following. First of all, Ambassador Urbina felt it necessary to interpret in his own way the results of the discussion of this issue that took place very briefly during the Council's consultations. At that time, Ambassador Urbina agreed to my conclusion that this issue needed to be discussed further in preparing for forthcoming missions of the Security Council.

Secondly, as President of the Council, I am compelled to point out that the preparations for this meeting did not involve an understanding that we would discuss procedural issues for preparing Security Council missions in a formal meeting of the Security Council.

Thirdly, as President of the Security Council and as the Permanent Representative of a permanent member of the Council, I am compelled to express regret that, in his remarks, Ambassador Urbina sought to introduce some sort of artificial dividing line between permanent members of the Security Council and the elected members of the Security Council, and between Member States and the Secretariat, with which we cooperate very closely in preparing for missions of the Security Council.

The meeting rose at 3.45 p.m.

United Nations S/PV.6132

Security Council

Sixty-fourth year

Provisional

6132nd meeting

Friday, 29 May 2009, noon
New York

President:	Mr. Churkin	(Russian Federation)
Members:	Austria	Mr. Mayr-Harting
	Burkina Faso	Mr. Tiendrébéogo
	China	Mr. Liu Zhenmin
	Costa Rica	Mr. Urbina
	Croatia	Mr. Skračić
	France	Mr. Ripert
	Japan	Mr. Takasu
	Libyan Arab Jamahiriya	Mr. Dabbashi
	Mexico	Mr. Heller
	Turkey	Mr. İlkin
	Uganda	Mr. Rugunda
	United Kingdom of Great Britain and Northern Ireland	Sir John Sawers
	United States of America	Mr. McBride
	Viet Nam	Mr. Bui The Giang

Agenda

The situation in Cyprus

Report of the Secretary-General on the United Nations operation in Cyprus (S/2009/248)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

09-35343 (E)

Please recycle

The meeting was called to order at 12.05 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Cyprus

Report of the Secretary-General on the United Nations operation in Cyprus (S/2009/248)

The President (*spoke in Russian*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2009/276, which contains the text of a draft resolution submitted by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Members of the Council also have before them document S/2009/248, which contains the report of the Secretary-General on the United Nations operation in Cyprus.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it.

I should like to inform the Council that the presidency of the Council has met with the representatives of the parties, who have confirmed that they maintain their well-known positions vis-à-vis the item on the Council's agenda. On the basis of those meetings, with the consent of the members of the Council, the presidency has drawn the conclusion that the Council can proceed to take a decision on the draft resolution before it. If I hear no objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Austria, Burkina Faso, China, Costa Rica, Croatia, France, Japan, Libyan Arab Jamahiriya, Mexico, Russian Federation, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam

Against:

Turkey

The President (*spoke in Russian*): The result of the voting is as follows: 14 votes in favour and one vote against. The draft resolution has been adopted as resolution 1873 (2009).

I shall now give the floor to those members of the Council who wish to make statements after the voting.

Mr. İlkin (Turkey): Having voted against the draft resolution today, I would like to briefly share with the Council the reasons that compelled us to do so. First of all, I wish to recall and underline that the partnership State established by the 1959 London and Zurich Treaties in the shape of the Republic of Cyprus and the Government of Cyprus collapsed in 1963, when the Greek Cypriots forcefully expelled the Turkish Cypriots from all State institutions, including the Government. Since that day, there has not been a joint and constitutional government representing the whole of Cyprus, either legally or functionally, and the two peoples have been living separately under their own administrations.

As Council members know, resolution 186 (1964) setting up the United Nations Peacekeeping Force in Cyprus (UNFICYP) following the Greek Cypriot armed offensive against the Turkish Cypriots and the subsequent Council resolutions extending the mandate of the Force could not be accepted by the Turkish Cypriot side or, as one of the guarantors of Cyprus, by Turkey.

The main reason for that has been the references made in all of these resolutions to the Government of Cyprus, which, in reality, has been representing only the Greek Cypriots since 1963. As a direct consequence of this, consent of the Turkish Cypriot side has never been formally sought, whereas UNFICYP should have functioned with the open consent of both parties on the island. Actually, this wrong approach — to consider the Government of Cyprus as the sole Government of the whole island — has unfortunately been the main obstacle on the way to finding a just, lasting and comprehensive solution for over 45 years.

Turkey has never objected to the intent behind the establishment of UNFICYP, which was to protect the Turkish Cypriots. Our objection has always been to the way these resolutions are adopted and the language they contained. Yet, thanks to the spirit of goodwill and cooperation displayed by the Turkish Cypriot side, UNFICYP has been functioning in the northern part of the island, in accordance with the modalities set by the Turkish Republic of Northern Cyprus.

It is for these reasons of principle that Turkey felt the need to vote against the resolution. As to the text itself, we have already shared with the members of the Council our detailed views and objections regarding several aspects of the resolution, so I will not repeat them. I have also conveyed them in writing to the presidency of the Council in our previous consultations.

We look forward to the day when the Cyprus issue is solved along well-established United Nations parameters on the basis of a new partnership within the framework of a bizonal, bicommunal federation in line with the political equality of the two parties. The Turkish Cypriots, by voting "yes" in the referendum in 2004, have proven that they want a just and lasting comprehensive settlement. Once again, they are prepared not to spare any effort to achieve a durable and equitable solution. We very much hope that the Greek Cypriots will respond positively to the call of the Turkish Cypriots.

The President (*spoke in Russian*): There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 12.15 p.m.

United Nations S/PV.6133

Security Council

Sixty-fourth year

Provisional

6133rd meeting

Friday, 29 May 2009, 12.15 p.m.

New York

President:	Mr. Churkin	(Russian Federation)
Members:	Austria	Mr. Mayr-Harting
	Burkina Faso	Mr. Tiendrébéogo
	China	Mr. Liu Zhenmin
	Costa Rica	Mr. Urbina
	Croatia	Mr. Skračić
	France	Mr. Ripert
	Japan	Mr. Takasu
	Libyan Arab Jamahiriya	Mr. Dabbashi
	Mexico	Mr. Heller
	Turkey	Mr. İlkin
	Uganda	Mr. Rugunda
	United Kingdom of Great Britain and Northern Ireland	Sir John Sawers
	United States of America	Mr. McBride
	Viet Nam	Mr. Bui The Giang

Agenda

The situation in Côte d'Ivoire

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09-35353 (E)

Please recycle

The meeting was called to order at 12.15 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Côte d'Ivoire

The President (*spoke in Russian*): I should like to inform the Council that I have received a letter from the representative of Côte d'Ivoire, in which he requests to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the consideration of the item without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Bailly (Côte d'Ivoire) took a seat at the Council table.

The President (*spoke in Russian*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

After consultations among members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council welcomes the communiqué dated 18 May 2009 of the Permanent Consultative Framework of the Ouagadougou Political Agreement, which provides a comprehensive electoral time frame leading to the first round of the presidential election in Côte d'Ivoire on 29 November 2009. It stresses that this time frame has been endorsed by all the main Ivorian political actors, as requested by the statement of the President of the Security Council S/PRST/2008/42 and resolution 1865 (2009).

"The Security Council underlines the importance of the effective implementation of each of the five stages leading to the elections, as referred to in the report of the Secretary-General dated 13 April 2009 (S/2009/196), namely: (1) the publication of the provisional voters list at the end of voter registration operations; (2) the publication of the final voters list; (3) the production of identification and voter cards; (4) the distribution of identification and voter cards; and (5) the electoral campaigning period.

"The Security Council, consistent with its resolution 1865 (2009), underlines that this timeline binds the Ivorian political actors and that the way it will be implemented will reflect their level of political commitment towards the holding of free, fair, open and transparent elections in a secure environment. The Security Council urges the Ivorian political actors to meet their commitments in full and without further delay. It urges again the political actors in particular to comply fully with the Code of Good Conduct for elections they signed under the auspices of the Secretary-General on 24 April 2008.

"The Security Council reaffirms its full support to the Special Representative of the Secretary-General for Côte d'Ivoire and to the United Nations Operation in Côte d'Ivoire, and recalls that the Special Representative shall certify that all stages of the electoral process provide all the necessary guarantees for the holding of free, fair, open and transparent presidential and legislative elections in accordance with international standards, consistent with paragraph 20 of resolution 1865 (2009). It takes note of the request by the Ivorian parties that the Special Representative of the Secretary-General make known and explain to all Ivorian stakeholders the content and modus operandi of the five-criteria framework referred to in document S/2008/250 and in resolution 1865 (2009).

"The Security Council reiterates its full support for the Facilitator, and calls on the Ivorian political actors to continue to cooperate fully with him, in particular in this critical phase of the peace process.

"The Security Council expresses the hope that the announcement of the electoral time frame will give a new impetus to the implementation of the Ouagadougou Political Agreement and its Supplementary Agreements. It takes note of the ceremony of transfer of authority held in Bouaké on 26 May 2009 as a positive development and urges the Ivorian parties to continue to make progress.

"The Security Council reiterates its determination to bring its full support to a credible electoral process in Côte d'Ivoire. To this end, it requests the Secretary-General to keep it closely and regularly informed of the progress made by the parties in the implementation of each of the key stages of the electoral time frame."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2009/16.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

Before I adjourn this meeting, and as we hope this is the last meeting in May — that is, the last under the Russian presidency — I would like to thank all my colleagues in the Security Council and all delegations of United Nations Member States that in some way participated in the work of the Security Council in May for their cooperation, understanding and support. I would of course like to convey my gratitude to my colleagues in the Secretariat, the interpreters and all those who enable us to carry out effective, intensive work.

The meeting rose at 12.20 p.m.

United Nations S/PV.6134

Security Council

Sixty-fourth year

Provisional

6134th meeting

Thursday, 4 June 2009, 10 a.m.
New York

President:	Mr. Davutoğlu/Mr. Ilkin	(Turkey)
Members:	Austria	Mr. Mayr-Harting
	Burkina Faso	Mr. Kafando
	China	Mr. Liu Zhenmin
	Costa Rica	Mr. Urbina
	Croatia	Mr. Sanader
	France	Mr. Lacroix
	Japan	Mr. Okuda
	Libyan Arab Jamahiriya	Mr. Gouider
	Mexico	Mr. Heller
	Russian Federation	Mr. Churkin
	Uganda	Mr. Mugoya
	United Kingdom of Great Britain and Northern Ireland	Mr. Parham
	United States of America	Ms. DiCarlo
	Viet Nam	Mr. Le Luong Minh

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Letter dated 14 May 2009 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2009/252)

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09-35926 (E)

Please recycle

Letter dated 14 May 2009 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994 addressed to the President of the Security Council (S/2009/247)

The meeting was called to order at 10.10 a.m.

Expression of thanks to the retiring President

The President: As this is the first meeting of the Security Council for the month of June 2009, I should like to take this opportunity to thank and pay tribute, on behalf of the Council, to His Excellency Mr. Vitaly Churkin, Permanent Representative of the Russian Federation, and to the Russian presidency for the successful manner in which they presided over the Security Council in the month of May 2009.

I also wish to recognize the presence of His Excellency Mr. Ivo Sanader, Prime Minister of Croatia. I extend a warm welcome to the Prime Minister.

Statement by the President

The President: Before we move on to the item on our agenda, allow me to say a few words in my national capacity.

As members of the Security Council know, this is the first public meeting of the Council under Turkey's presidency. I am delighted to be here with you today. When Turkey decided to run for a seat on the Council, some five years ago, we did so with a clear vision of the United Nations and of our possible role in the Council. Indeed, we see the United Nations as the principal embodiment of international legitimacy, and the Security Council as the primary organ responsible for maintaining global peace and security.

Turkey has been a responsible member of the international community, deeply committed to upholding the ideals and principles enshrined in the United Nations Charter. Indeed, as a founding Member of the United Nations, active involvement in the policies and programmes of the Organization constitutes one of the main pillars of our foreign policy. This is why we thought our membership in the Council could help amplify the constructive role we try to play in our region and beyond. We also hoped that our insight into the rather complex issues that the Council is grappling with, especially those of our region, might bring added value to the work of this body.

In retrospect, the five months since we assumed Council membership have vindicated our vision. We have benefited greatly from our deliberations on a wide area of issues and have tried to translate them into positive inputs for our policies and initiatives. Now, looking ahead, we are even more hopeful that our active engagement with the members of the Council and the entire United Nations membership will continue to contribute to peace and stability in the world.

I am confident that the busy programme of work for June, which reflects almost the entire agenda of the Council, will be a step in this direction. As the President of the Council for this month, we will certainly do our share.

In this vein, I am particularly pleased to start our presidency with this meeting on the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. The contribution of those two Tribunals to international criminal justice and, consequently, to reconciliation, stability and peace in the affected countries is most commendable. As a country that is deeply committed to the rule of law and as a firm believer in the mutually reinforcing relationship between peace and justice, Turkey greatly values the important work carried out by those Tribunals. Combating impunity and providing justice to the victims of violations of international humanitarian law are a priority for us.

However, the fulfilment of those objectives is not and cannot be limited to the lifespan of the Tribunals in the case of the former Yugoslavia and Rwanda. Thus, as we near the closure of the two Tribunals, we have to ensure that the culture of impunity will never resurface and that the necessary mechanisms to that end are firmly in place.

Since we will be dealing with this issue shortly in more depth, let me stop here. Without further ado, allow me to proceed with our formal agenda.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

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The President: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, Kenya, Rwanda and Serbia, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Patrick Robinson, President of the International Criminal Tribunal for the Former Yugoslavia; Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the following documents: S/2009/252, which contains the text of a letter dated 14 May 2009 from the President of the International Criminal Tribunal for the Former Yugoslavia addressed to the President of the Security Council; and S/2009/247, which contains the text of a letter dated 14 May 2009 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council.

At this meeting, the Security Council will hear briefings by the President of the International Criminal Tribunal for the Former Yugoslavia, the President of the International Criminal Tribunal for Rwanda and the Prosecutors of the International Criminal Tribunals for the Former Yugoslavia and Rwanda.

I now give the floor to Judge Patrick Robinson, President of the International Criminal Tribunal for the Former Yugoslavia.

Judge Robinson: It is indeed an honour for me to appear before you today in my capacity as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to do so under the presidency of Turkey.

My remarks today will be brief, as the details of the measures the Tribunal has undertaken to complete its mandate are set out in my written biannual report (*see S/2009/252*), which has been duly submitted to the Council.

Since my most recent presentation before you, the Tribunal has continued to focus its energy on completing its work as expeditiously as possible. Three appeal judgments have been rendered, including in

some of our most complex cases, and seven trials are being heard simultaneously in our three courtrooms.

Of the remaining caseload, the trial of two accused, Stanišić and Simatović, will begin tomorrow, 5 June 2009, and that of Karadžić will commence in late August 2009. Both Tolimir and the final case of Mićo Stanišić and Stojan Župljanin will commence in September 2009.

Our current estimates suggest that all but three of our trials will conclude in 2010, two more in early 2011 and the final trial, that of Karadžić, in early 2012.

As you can see, our trial activity is entering the final stretch. However, one serious hurdle remains: the continued flight from justice of Ratko Mladić and Goran Hadžić. The failure to bring these two men to justice will leave a stain on the Security Council's historic contribution to peacebuilding in the former Yugoslavia.

Allow me to turn to the current projection of the remaining appeals, including those anticipated from the ICTY and our sister tribunal, the International Criminal Tribunal for Rwanda (ICTR), it being recalled that the two Tribunals share an appellate function. Following a detailed analysis, the Tribunal estimated that, absent a redeployment of eight trial judges to the Appeals Chamber upon the completion of their trial work, the ICTY/ICTR Appeals Chamber would be occupied with appellate work into 2015. However, with the redeployment of four ICTY and four ICTR judges, most appellate work will be completed by the end of 2012, with four cases spilling into the first half of 2013.

This proposal for deployment was presented in the Tribunal's biennium budget for 2010-2011 as part of the Tribunal's downsizing programme and is a matter that is now formally before the Security Council in the form of a request for an extension of the mandates of the permanent trial and appeal judges and the Tribunal's ad litem judges. In this regard, I thank the Austrian Chair of the Security Council Working Group on the ad hoc Tribunals and the Office of the Legal Counsel for their assistance in expediting the consideration of these proposals to ensure that the work of the Tribunal is not frustrated.

I note, however, that the heavy appellate workload of the Tribunal is in part due to the failure of rule 11 bis transfers from the Rwanda Tribunal to national jurisdictions. Rwanda was found not to have sufficient capacity to try such cases, and in response the international community is taking measures to address this deficiency. But perhaps more troubling is the lack of capacity or readiness to try such cases present in European countries, where the ICTR had also sought to transfer cases pursuant to rule 11 bis. I consider this to be a critical issue that needs to be addressed by the Security Council and the international community. Surely, countries with highly developed judicial systems could make a greater effort to accept a limited number of 11 bis transfers. In so doing, they would make a real contribution to the international community's efforts to bring the work of the Tribunal to completion in full respect of due process.

It may be that the Security Council's proscription in paragraph 6 of resolution 1534 (2004), which requested the Tribunal not to try cases involving intermediate and lower rank accused, was inexorably linked to the transfer of cases to the States of the former Yugoslavia. However, with the blessing of the Security Council, we could make a renewed effort to transfer to a developed country one major case of a senior accused. That move alone would save one trial bench 14 months of court sitting, not to count the required time for consideration of an appeal.

While the Tribunal continues to make every effort to expedite its work, it has identified some factors that may cause delays to its schedule, which need to be more extensively addressed. First is the issue of translation. Observing the United Nations standard of 5.5 pages per day per translator, the need for extensive referencing and indispensable review process to ensure quality translation requires significant time. The situation is further aggravated by the extraordinary demands made on our limited language resources. Owing to the highly technical and often confidential nature of the legal translation work required, outsourcing translations has necessarily been restricted in scope.

Efforts continue to identify ways of minimizing the impact of the need for translation on trial and appeal schedules and to identify and recruit qualified translators. However, 20 vacancies remain in the language service, and recruitment is hindered by the completion strategy. In most cases, it takes at least three to five months to recruit a suitable candidate. As the ICTY is facing increasing competition in hiring qualified language staff without retention incentives, it

is likely that the number of translators will decrease rather than increase in the future.

Another matter which has had a negative impact on the expeditious progress of trials is contempt proceedings. I need only mention the Seselj trial, which has been adjourned since March 2009. In light of the impact of contempt proceedings on the completion of our trials, I established a working group to examine ways in which contempt may be dealt with without delaying proceedings. That report will be submitted to me shortly, and I am hopeful that it will contain concrete measures that Judges may adopt when faced with contempt issues during their trials. Additionally, the Rules Committee is considering the adoption of a rule to allow the admission of written statements of witnesses who are kept away from trial through intimidation.

Let me return to the issue of staff retention; it is a difficulty which cuts across all areas of the Tribunal's operations. In the past three months, we have lost 82 staff members at a rough average of 27 per month. Much has been said about the need for highly qualified personnel for the orderly completion of our work. I appeal to the Security Council to exercise foresight so that concrete measures can be implemented now to retain our staff. The only measure that has been taken so far by the General Assembly is resolution 63/256, adopted at its sixty-third session on 24 December 2008. In paragraph 5 of that resolution, the General Assembly requested the Secretary-General

> "to use the existing contractual frameworks to offer contracts to staff, in line with dates of planned post reductions in accordance with the relevant prevailing trial schedules, in order to remove uncertainty with regard to future employment with the aim of ensuring that the Tribunals have the necessary capacity to complete their respective mandates effectively".

It is my intention to ensure the implementation of the resolution as soon as possible, but even so I doubt that this will be enough. I do not want to return here in six months and be berated by the Security Council for a report that indicates substantial delays in the anticipated schedule I am presenting today due to the continuing departures of our uniquely qualified and experienced staff. I have a genuine fear that we will soon find ourselves without sufficient staff, but it appears to me that Member States that are in a position to assist have adopted an attitude of uninterestedness in this matter. I am not normally given to hyperbolic comments, but if we continue to lose staff at the rate of 27 per month I fear that one day the judges may come to work and find themselves alone.

The Tribunal is doing all it can to retain its staff, but without appropriate assistance and concrete measures it will not be successful. This is a matter that I will continue to raise with the Secretary-General, the Office of Human Resources Management and the Controller, and the Security Council's active support in this matter would be very helpful.

That said, I note that all indications are that our request for extensions of our judges consonant with our remaining work load will not be granted by the Security Council and that, at most, all judges will be granted an extension until 31 December 2010. Now, this is a political decision taken by the Security Council, but I cannot impress on the Security Council enough the signal such a piecemeal approach to extensions of the mandates of our judges sends to our staff. Such an approach only operates to enhance their desire to secure other employment as soon as possible. I would ask the Council to seriously reconsider the wisdom of its approach to this issue.

I must thank the Security Council Working Group on the ad hoc international tribunals and the Austrian Chair, for their work on the residual mechanism. The Tribunal is grateful to the Office of the Legal Counsel for the extensive opportunities it gave the Tribunal to provide input for the report of the Secretary-General on the budgetary and administrative aspects of the residual mechanism.

Let me close my remarks by stating, in the words of Henry Wadsworth Longfellow: "Great is the art of beginning, but greater is the art of ending." In the very near future, our cases will be completed. Provided that the Security Council ensures that the Tribunal is given sufficient resources to complete its work expeditiously and fairly and provided that sufficient incentives are adopted immediately to retain staff, great indeed will be the art of our ending.

The President: I thank Judge Robinson for his briefing.

I now give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: I would like first of all to wish the new Turkish presidency the best of success for their tour of office. I would also like to recognize the presence of the Prime Minister of Croatia.

It was 15 years and two months ago, on 7 April 1994, that the Rwandan genocide started. Three months later, at least 800,000 people had been killed, not to speak of the number of victims of rape, mutilation and torture and not to mention the psychological damage done to millions. Only a few months after the end of the atrocities, the Security Council created the International Criminal Tribunal for Rwanda (ICTR) with high expectations and ambitious goals. The Council was:

> "Convinced that ... the prosecution of persons responsible for serious violations of international humanitarian law would ... contribute to the process of national reconciliation and to the restoration and maintenance of peace ... ." (*resolution 955 (1994), seventh preambular paragraph*)

I would suggest that the Tribunal has fulfilled many of those expectations and we remain committed to ensuring that our legacy will be satisfactory to all Rwandans.

As I present the eleventh completion strategy report to the Council today, I am mindful that I am here not merely to report the achievements of the Tribunal, but to acknowledge that the credit for those achievements belongs to the Council. At no small expense Council members have supported this Tribunal, which marks a milestone in articulating and protecting fundamental human rights without regard to ethnicity, local politics or national boundaries. The Council's support of our efforts demonstrates its commitment to the proposition that man's inhumanity to man cannot be excused as an inevitable trait of human nature. It is a choice for which every perpetrator of atrocities can be and must be held responsible.

The ICTR has accomplished much since it was established in November 1994. It has rendered judgements concerning forty-four defendants in complex cases under difficult conditions. Yet, equally important, the Tribunal has established a judicially verified factual record of the events in Rwanda that will serve as a background for the remaining trials, a resource for historians and as a major contribution to the process of reconciliation.

But we are not complacent. In the six months since I last reported to you in December, the Tribunal has rendered three judgements involving six accused. Between now and the end of the year, we expect six judgements in other single-accused cases. The first months of this year have also seen the completion of the evidence phase in two of the largest multi-accused trials; the Butare trial and the Military II trial. These two and the Bizimungu case are now all in the judgement drafting phase, involving in total some 14 accused. In the fifth multi-accused case, the Karemera trial, we are currently awaiting the decision of the Appeals Chamber with respect to our order to sever one of the defendants whose continued illness has delayed the proceedings.

The maximum possible number of ten new cases projected for 2009 during my last presentation to the Security Council did become a reality. Four of these ten new cases have commenced as of today and in one of them the evidence phase has already been completed.

The Tribunal continues with its efforts to improve the management of the trials, from the pretrial stage to the drafting of judgements. Nevertheless, the commencement of several of the new trials had to be adjourned for a variety of reasons, including disclosure issues, the unanticipated resignation of counsel in three cases shortly before the scheduled start of the trial, the death of one of the defence counsels and the recusal of a presiding judge. But despite those delays, we continue to make all efforts to meet the projections and to conclude the evidence phase by the end of this year to the extent possible.

However, the delayed start of some of the trials requires contingency planning for a possible spillover of those hearings into the first months of 2010. The delays could also affect the schedule for the judgement drafting process, both in the new and the ongoing cases, as the same judges will be in trial and in deliberation for judgements. However, with a caveat for the Karemera trial, we expect judgement to be delivered in all of these cases during the course of 2010. It is in this context that we invite the Council to approve the extension of the mandates for our trial judges until 31 December 2010.

Three new ad litem judges joined the Tribunal in January and are part of the bench in several new trials. Our efforts to recruit a fourth additional judge from the roster were not successful, and the roster has been depleted. However, as evidence of our commitment to downsizing wherever possible and to prevent further delays that might be incurred by the nomination process, we have decided to try the remaining new cases with judges currently serving at the Tribunal and not to request the appointment of additional ad litem judges. At the same time, this decision undoubtedly puts an additional burden on the currently serving judges, who are all sitting in at least two and often three cases in parallel.

The inequality between permanent and ad litem judges with respect to certain entitlements remains a major source of concern. Following resolution 1855 (2008), which abandoned the requirement for a permanent judge to be included in each bench, the ad litem judges are now nearly identical in authority to the permanent judges and on equal terms regarding responsibility and case load. Ad litem judges will preside in several of the new cases. Addressing the inequality in status is crucial not only to ensure the motivation and commitment of those judges, but also as a matter of simple equity.

The ICTR is faced with a turnover of staff that is constantly increasing and is exacerbated by the insecurity stemming from the short-term duration of the contract currently being offered by the Tribunal. Loss of experienced staff translates into loss of institutional memory, which is not easily overcome by engaging new staff. This fact emphasizes the need to ensure that experienced staff members are retained as long as their services are required.

Although much has been achieved, important tasks remain. Fifteen years after the genocide, 13 fugitives are still at large, four of them earmarked for trial before the Tribunal as high-level accused. I reiterate strongly my call upon Member States to cooperate fully with the Prosecutor's efforts to ensure their arrest and transfer to Arusha during this last period of the Tribunal's mandate. For an international community committed to the fight against impunity, letting those indicted for the most serious crimes escape trial is not an acceptable option.

The cooperation and assistance of Member States remains a cornerstone for the successful completion of the Tribunal's mandate in many respects. Two weeks ago, I signed decisions for the transfer of a further nine convicts to a Member State for the enforcement of their sentences. The support of the international community is still urgently required for the relocation of the two acquitted persons remaining in Arusha. I would like to reiterate my call for the Council's cooperation in this matter.

As the Council is aware, the Tribunal is currently in the process of preparing budget proposals for the 2010-2011 biennium. The remaining work load is enormous, and our ability to successfully complete it is dependent on the adequacy of both financial and human resources and is relevant to this discussion even though the Security Council is not the forum for discussing budgetary matters. Kindly allow me to seize this opportunity to ask for the support of Member States in ensuring that the Tribunal is provided with the resources needed to complete its tasks. Even in these difficult times of economic crisis, I am convinced that all Member States remain committed to the goal of delivering high quality justice to the victims of the Rwandan tragedy. We can achieve these goals set for our work by the international community only if the necessary resources are provided.

While the Tribunal continues working at full speed, preparations have to be made for the future after the closing down of the Tribunal. The Secretariat has been consulting the Tribunal extensively during the preparation of the report to the Security Council on the residual mechanisms and the archives. I am confident that the report will provide a very solid and comprehensive basis for the difficult decisions the Security Council will have to make on these matters. I trust that our joint goal of effectively avoiding impunity for genocide, war crimes and crimes against humanity committed in Rwanda in 1994 will be the overarching principle guiding its decisions.

Let me conclude by expressing, on behalf of all the judges and staff members of the ICTR, our sincere appreciation for the continuous support of the esteemed Governments represented on the Council. I would also in particular like to thank the staff members of the United Nations Secretariat for their invaluable advice and support. I would especially like to single out the Office of Legal Affairs in this regard.

Our joint efforts to bring to justice those who committed the most atrocious crimes in Rwanda in

1994 are sending a powerful message to the world. Even if fifteen years have passed, even if it has been a burdensome process containing challenges and flaws, even if not all indictees have been arrested as yet, we must and we will continue to fight against the culture of impunity and for accountability and justice. The goal of successful reconciliation and enduring peace in the Great Lakes region will only be achieved if all those concerned can trust the power of this message.

The President: I thank Judge Byron for his briefing.

I now give the floor to Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia.

Mr. Brammertz: I thank the Council for giving me the opportunity to present the 11th report on the completion strategy of the Office of the Prosecutor.

I will provide the Council with a brief update on our judicial work, the cooperation of States, efforts undertaken to support the work of prosecution services in the former Yugoslavia and, importantly, the organizational plans for my Office during the final phase of the Tribunal's existence.

It is expected that 2009 will be the last year of full trial activity before the downsizing of the Tribunal begins in 2010. During the last six months, the Prosecution has made significant progress in achieving the completion strategy goals. Since I submitted my written report to the Security Council in the middle of May, the Prosecution has completed its final arguments in a trial of two accused — the *Lukić and Lukić* case — and judgement is expected in the coming months.

There are at present six cases — and 19 accused — in trial. One of these cases, a complex prosecution of seven accused persons charged with crimes committed in Srebrenica, is now in its final stages. The Prosecution's final brief in the *Popović et al.* case is due at the end of July and final arguments are scheduled for the end of August.

The other cases in trial — the *Đorđević* and *Perišić* trials — are well advanced into the prosecution phase, while the *Prlić et al.* and *Gotovina et al.* cases are now in their defence phase.

Despite the prosecution's efforts to move forward through the trial schedule, some additional delays have occurred. Most notably, in February 2009, the *Šešelj* case had to be adjourned as a result of difficulties in securing the remaining witnesses' evidence.

Significant progress has been made in the last four cases currently at the pretrial stage. The *Karadžić* prosecution team has been working consistently to ensure the case is ready to start trial shortly. After a lengthy adjournment due to Jovica Stanišić's health problems, the *Stanišić and Simatović* case is due to recommence soon. The prosecution is ready to begin the *Stanišić and Župljanin* trial, which is expected to begin in September, and the *Tolimir* case should begin trial in September as well. In order to ensure the immediate commencement of new trials, we have moved quickly by reassigning staff finishing the *Popović et al.* and *Lukić and Lukić* trials.

Prosecution work on appeals cases remains constant and is expected to increase significantly in future months. By the end of 2009, the Appeals Division will have a continuing inventory of 24 appeals case.

The cooperation of States with my Office remains critical to the successful completion of our trial and appeals work. We continue to request the assistance of Bosnia and Herzegovina, Croatia and Serbia in a number of areas, such as the provision of documents, access to archives, ensuring that witnesses can testify before the Tribunal, and assisting in locating and arresting fugitives. I recently travelled again to those countries, where I met with authorities at the political, judicial and operational levels to raise all those matters.

Since my last briefing to the Council, Serbia has made additional progress in its cooperation with my Office. The large majority of requests for assistance have been complied with, including those for access to documents and archives. As senior leadership trials are ongoing and others will start soon, we hope that that trend will continue.

The search for and arrest of Ratko Mladić and Goran Hadžić remain the central issue in relation to Serbia's cooperation. My Office remains in close contact with the services in charge of tracking fugitives and closely follows their activities. During my recent visits to Belgrade, I had full briefings on their work.

Developments at the political level in the past year and the new leadership at the operational level have led to an improvement in the professionalism and

the efficiency of the activities to locate and arrest the remaining fugitives. I hope that the political authorities in Serbia will provide all necessary support to the professional work done at the operational level. Cooperation must continue and hopefully will lead to further concrete and positive results.

In my report, I have also expressed my concern with regard to recent negative statements by senior Government officials about the Tribunal's judicial decisions. They seem to be in contradiction with the level of cooperation on the ground.

With regard to Croatia, the remaining and only outstanding issue is the prosecution's request that Croatia provide a number of key military documents related to Operation Storm in 1995. The lack of success of efforts by my Office over a considerable period of time to obtain those documents has required the prosecution to bring the matter before the Trial Chamber.

Croatia was ordered by the Tribunal to conduct an investigation into the missing documents. In response, Croatia submitted several reports, providing, in its most recent submission, additional information on the administrative investigation and supplementary information on the chain of custody of the missing documents. A number of meetings, focusing on those outstanding matters, were held with the authorities. Unfortunately, progress in the lengthy investigation has been limited and, to date, most of the military documents have not been submitted to the Tribunal. We have raised with Croatia our concerns about the focus, manner and methodology of the investigation conducted.

That matter remains pending before the Chamber. The trial has now entered the defence phase and is nearing its completion. It is therefore crucial that Croatia continue to focus its efforts on locating and providing those key documents. I will remain in close contact with the authorities in the hope of achieving further progress in the near future, but I would also like to take this opportunity to thank the Prime Minister for his personal interest and determination to resolve this issue.

With regard to Bosnia and Herzegovina's cooperation, there are no specific outstanding issues in relation to our trials. However, the judicial system of Bosnia and Herzegovina continues to face serious challenges, which could have an impact on its cooperation with the Tribunal. I support all efforts undertaken to strengthen its judicial capacity to cope with the numerous unresolved war crimes cases. In that regard, a national strategy for war crimes processing was adopted last December and is a promising development. Together with representatives of the international community in Bosnia and Herzegovina, I am in favour of maintaining an international presence in judicial institutions, such as the Special Department for War Crimes of the State Court of Bosnia and Herzegovina.

Another priority of my Office is the support to national jurisdictions prosecuting war crimes. Assisting our colleagues in the former Yugoslavia in successfully conducting war crimes prosecutions remains a key component of the completion strategy. It is the best way to ensure the successful continuation of our work.

In the next months, we will complete the process of transferring investigative material to national prosecution services. We are now ready to transfer three cases involving 10 suspects to the Office of the State Prosecutor in Bosnia and Herzegovina. The last four cases, involving 11 suspects, will be transferred to Bosnia and Herzegovina before the end of the year.

Responding to requests for assistance and making available documents and archives are other important aspects of that cooperation. We are providing such information to prosecution offices, both within and outside of the former Yugoslavia. In the past six months, our transition team has handled over 90 requests for assistance. Interestingly, half of those requests originated from countries outside of the former Yugoslavia.

Although cooperation between prosecution services is improving, national judiciaries continue to face significant legal obstacles and challenges with regard to the prosecution of war crimes cases. Prohibitions on extraditing one State's nationals to another State and the legal barriers to transferring war crimes cases between States threaten their successful investigation and prosecution. All authorities concerned should address those issues by establishing the necessary legal frameworks. That appears to be the only way to avoid an impunity gap.

My Office has participated in several conferences with prosecutors from the region to strengthen cooperation in judicial matters between States of the former Yugoslavia. One important recent achievement

in that process are databases and inventories of war crimes cases in the region. Another important development, which I announced during my last briefing, is the establishment, with the support of the European Commission, of a concrete cooperation project that allows prosecutors from the region to be integrated into our Office in The Hague. The first liaison prosecutors are expected to start working in my Office this month. That initiative, like others, reflects the excellent interaction my Office has had with the State and War Crimes Prosecutors' Offices in Bosnia and Herzegovina, Croatia and Serbia.

I would now like to briefly address the organizational plans of my Office for the future. A serious downsizing programme has been planned to begin in 2010. In our budget proposal, which was submitted to the Secretariat this week, we envisage, over the next two years, a reduction of 60 per cent of our posts and a 42-per-cent reduction in non-post items in the Office of the Prosecutor. There will also be a gradual redeployment of posts from the Trial Division to the Appeals Division to meet their growing workload.

While we are fully committed to the downsizing process, I would like to once again stress the need to retain our experienced and specialized staff members in order to complete our work. In the present situation, a considerable number of staff members have left my Office and more could leave the institution because of other opportunities elsewhere. It is therefore crucial that their needs be taken into consideration and that ways be found to retain our staff members until the end of the trials. Together with the President and Registrar, we will continue to address those issues with relevant United Nations bodies and Secretariat offices.

Finally, I would like to thank the Council once again for the continuing support provided to my Office.

The President: I thank Mr. Brammertz for his briefing.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: Since our last report to the Security Council, in December 2008, intense activity has continued at the International Criminal Tribunal for Rwanda (ICTR) towards the implementation of the Tribunal's completion strategy, and we remain firmly committed to the expeditious and proper completion of our mandate to bring justice to Rwanda in the light of the genocide of 1994.

Within the past six months, the prosecution has commenced the trial of four new cases, one of which has just been completed, and gradual progress has been made in respect of the other cases. The prosecution has already closed its case in two of those cases after very, very brief trials. In addition, the ongoing trials in the multiple-accused case of *Karemera et al.* and the single-accused case of *Setako* are moving towards finalization. Of the six detainees currently in detention awaiting the scheduling of their cases for trial, the prosecution has prepared those cases and is ready to proceed once they are scheduled.

During the same period, seven new cases and appeals have also been filed with the Appeals Chamber, and now there is a total of 11 such cases pending appeal which are being dealt with by the Office of the Prosecutor for hearing.

However, despite the intense activity of the ICTR tracking team, no further arrests of any of the 13 outstanding fugitives have been secured in the past six months. Our focus in the next six months will thus be: the conclusion of the ongoing trials; the commencement of the trials of the remaining detainees, as and when they are scheduled and in respect of which, as I have said, we are trial-ready; the intensification of our tracking efforts, to secure the arrest and transfer of the fugitives to the ICTR for trial or for transfer elsewhere; renewed efforts for the referral of some cases by the ICTR to Rwanda and to other competent national jurisdictions; and the exploration of new measures to preserve the evidence for the trials of at least the four high-level fugitives who have been earmarked for trial in Arusha, when they are eventually arrested.

The arrest of Félicien Kabuga continues to be a top priority for the ICTR. Council members have been briefed regularly on the efforts to effect his arrest and his transfer to the Tribunal. Incontrovertible evidence collected by the Joint Task Force comprising Kenya police and ICTR investigators indicates that Félicien Kabuga entered Kenya in 1994 and was granted a residence permit as well as a permit to carry out business in that country. He, as a result, purchased property; he registered businesses in his own name as well as in the names of others; and he opened various

bank accounts in his name with various banks in Kenya. The reports of the Joint Task Force also document several reported sightings of Kabuga in Kenya over a long period.

For several years now, the ICTR has been engaged in securing the cooperation of Kenya in arresting Kabuga and transferring him to the ICTR for trial, and also in the freezing of his assets and properties located in that country. This has involved several missions to Kenya by ICTR officials, including myself. My latest mission to Nairobi in this regard was in March 2009. So far, one property — the family residence of Kabuga in Nairobi, known as the Spanish Villa — has been the subject of seizure by the Kenyan authorities.

On 8 January 2008, the Director of Immigration of Kenya wrote to the Joint Task Force to inform it that Félicien Kabuga had left Kenya. All efforts, including my recent mission of March 2009, to obtain from the Kenyan authorities the particulars and circumstances of his alleged departure from that territory, as well as access to certain governmental records relating to his assets and activities, have been fruitless, as the Kenyan authorities have so far failed to comply with the requests of the Tribunal.

Consultations are also ongoing with the Government of the Democratic Republic of the Congo in order to find ways of effecting the arrest and transfer of the large number of ICTR fugitives in that country. We continue to appeal to the Security Council to call on Kenya, the Democratic Republic of the Congo and all other States to cooperate with the ICTR in the arrest and transfer of these indictees. The Tribunal's legacy, and by extension respect for the impact of international humanitarian law, depends on the ability of the international community to arrest and give a fair trial to all those who have been indicted for these grave atrocities against their fellow human beings.

The cooperation of Member States where fugitives from justice have been located is critical. Closure of the Tribunal without the arrest or without the transfer of these fugitives offers the real danger of maintaining an impunity gap that will be difficult to fill. It is all the more urgent therefore that Member States fully cooperate and that the international community provide additional support — especially in the case of the Democratic Republic of the Congo, and pressure in the case of Kenya — to these Member States to ensure the immediate capture of the fugitives and their transfer to Arusha for trial.

Following the Appeals Chamber decisions rejecting referral of cases to Rwanda for trial under rule 11 bis of the ICTR Rules, the Government of Rwanda is in the process of enacting — indeed, I am advised that it has enacted — additional legislation to meet the remaining concerns of the Appeals Chamber in relation to the protection of witnesses and the recording of testimony of witnesses who may be reluctant to travel to Rwanda to testify. Once the law comes into force and the capacity is established for witness protection and video link facilities, my Office will again consider making further applications before the Trial Chambers in the course of this year for the referral of cases of ICTR indictees to Rwanda for trial.

As the concerns of the Trial and Appeals Chambers relate to legal as well as capacity issues, I would urge the Council to call upon Member States to redouble their efforts in support of capacity-building for the Rwandan legal system. Rwanda has had the onerous burden of dealing with the cases transferred not only from the Tribunal but also possibly from other national jurisdictions, as well as many other domestic cases of genocide, war crimes and crimes against humanity.

Rwanda, I must acknowledge, has also accomplished much in this area: the abolition of the death penalty; the incorporation of additional fair-trial guarantees in law; the upgrading of facilities; and the training of personnel, with the assistance of the Tribunal. Those positive efforts for capacity-building in the legal sector should be encouraged.

The continued and prolonged evasion of justice by the fugitives also poses a challenge to the proper administration of justice, even when those fugitives are finally arrested and brought to trial. As shown by our own experience with the current trials that are ongoing, the longer the interval between the commission of these serious crimes, in 1994, and the time of trial, the greater the possibility that much of the evidence may be lost due to the unavailability of witnesses for various reasons — such as death, relocation or just reluctance on the part of the witnesses to be involved after such a long interval.

Yet, understandably, there are no time limits for the prosecution of these offences. The indictees will be prosecuted whenever they are arrested, for so long as

there is evidence available. Some of the indictees are of such a high level that it has been considered appropriate for their trials to be conducted by an international mechanism. The public interest in the proper administration of justice requires that a fair and proper trial not be subverted by the success of the fugitives in evading justice long enough for the evidence against them to possibly disappear, especially where the bulk of the evidence is based on the oral testimony of witnesses, who may no longer be available.

Accordingly, my Office has proposed amendments to the ICTR Rules which would enable the Tribunal to preserve the testimony of witnesses in the cases of the fugitives, and which would enable such evidence to be available in any subsequent trial if the witnesses are not available at that time. The rule change, when adopted, will result in proceedings to take special depositions next year from such witnesses in at least four cases of fugitives. These proceedings are expected to be very limited in duration, and they should not have an adverse impact on the completion strategy.

Building upon the conference of international and national prosecutors held in November 2008, my Office will be hosting the annual prosecutors' colloquium later in the year to discuss the legacy of the International Criminal Tribunals in relation to measures against impunity for mass atrocities. The colloquium will focus on drawing lessons from the past in the administration of international criminal justice and on reflecting on the future of that process at a time when the ad hoc Tribunals are winding down. The Tribunal is currently also focusing more attention on residual matters relating to archives and public access to documents, continuing support for national prosecutions and appropriate administrative closure and reporting.

We remain firmly committed to concluding the trials of current detainees in a timely manner and to making the referral of cases of some detainees and fugitives a success. We do not underestimate the challenges of doing so, in particular in the light of the possible loss of experienced staff as the completion strategy progresses. We nonetheless remain committed to those goals.

I would very much like to thank the Security Council and all the organs of the United Nations for their continued support for the work of the ICTR.

The President: I thank Prosecutor Jallow for his briefing.

I shall now give the floor to the members of the Security Council.

Mr. Sanader (Croatia): Allow me to begin by welcoming President Robinson and President Byron, as well as Prosecutors Brammertz and Jallow. After carefully listening to their reports, I want to reaffirm once more Croatia's firm commitment to continue with the implementation of our Constitutional Act on full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY).

(*spoke in French*)

I should like to underscore the importance that my Government and I myself attach to the work of the Tribunal, as well as the need to achieve the goals for which the Council established the Tribunal. In both our capacity as a member of the Security Council and as one of the main proponents for the establishment of the Tribunal, Croatia will continue to call for and provide full support for the fulfilment of the Tribunal's mandate and for the prosecution of persons responsible for crimes.

(*spoke in English*)

Indeed, the Tribunal is said to be the key force in a process that respects victims by providing justice — a process that, by providing justice, paves the way for a better future, one of peace, security, reconciliation, cooperation and prosperity.

Croatia has gone a long way in that regard. Along that path, we have never forgotten our starting point. We still remember Ovčara and the other 142 mass graves across our country. We still have vivid memories of the complete destruction of Vukovar and the shelling of Dubrovnik, Osijek, Zadar, Gospić and so many other cities and towns in Croatia. We regret that some of the perpetrators of those crimes are still at large. We regret that Goran Hadžić has not yet been turned over to The Hague. We certainly regret that Ratko Mladić is still at large. He and Hadžić are responsible for the gravest crimes committed in Europe after the Second World War, namely, the massacres in Srebrenica and Vukovar. Most of all we regret that the

Milošević indictment came too late, and indeed without a sentence. His death made it impossible for a sentence to clearly outline the development of a policy that used aggression and the systematic application of war crimes.

Yet, our regret has not prevented us from looking towards the future or from rebuilding our country on the premises of respect for human dignity, the rule of law and international justice. In Croatia we made the choice to strengthen our democratic institutions, reform our judiciary and develop a State where nobody is above the law. With that belief and with our commitment to fundamental democratic values, we have succeeded in putting Croatia on the track towards development, reconciliation and progress. We have also strengthened our society internally and strengthened our position in the world. We joined NATO and became a full member of the Euro-Atlantic family of democracies. One of the conditions for achieving that goal was full cooperation with the ICTY.

We are glad that in his report (see S/2009/252) the Prosecutor confirmed Croatia's overall good cooperation with the ICTY. With regard to a single case pertaining to the delivery of documents, Croatia differs with the Prosecutor's assessment. While fully cooperating with his Office, we also note that, according to the ICTY rules of procedure, the Prosecutor is a party during the judicial proceedings. It is for that reason that, pursuant to the rules of procedure of the ICTY, Croatia has submitted to the Trial Chamber a request to confirm the fulfilment of Croatia's obligations in providing the requested documents or establishing their chain of custody. In the meantime, Croatia will continue to fully cooperate with the Prosecutor's Office.

Croatia will continue to support the Tribunal, in the belief that the ICTY is serving the purpose for which it was established by the Security Council. As a member of the Security Council and as a member of NATO and a future member of the European Union, Croatia will actively support the achievement of those goals, fully aware that they will be the measure to define the Tribunal's legacy. Croatia very much appreciates and supports President Robinson's and the Tribunal's efforts to ensure the early and orderly completion of its work. The Tribunal has now entered a critical period, in which it will be necessary to begin to downsize while continuing to work on the remaining cases and on the transition towards an appropriate infrastructure that will take up the Tribunal's residual functions in the future.

Finally, let me repeat the message that I delivered two years ago at the General Assembly. Everybody everywhere should have no doubt that any and all crimes against humanity will not be allowed to go unpunished. That is our common responsibility. Only then can we create a better world for posterity.

Mr. Mayr-Harting (Austria): At the outset, Mr. President, I would like to congratulate you and Turkey on taking over the presidency of the Security Council for the month of June. I would also like to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings.

In my statement today, I will first say a few words about our national position regarding the completion strategies of the Tribunals. Secondly, following the practice of my Belgian predecessor, I would like to take this opportunity to give an update on the activities of the Security Council informal Working Group on international tribunals, which Austria has chaired since the beginning of this year. I therefore ask for the President's forbearance, as I might need one or two minutes longer than if I were to limit myself exclusively to the national part of my statement.

Austria strongly supports all efforts to strengthen international criminal justice, including through the International Criminal Court, ad hoc or mixed tribunals and truth commissions. We must ensure that those responsible for the most serious crimes are held accountable and brought to justice. We commend the ICTY and the ICTR for their pioneering role in combating impunity and for their contribution to the development of international criminal law and international humanitarian law.

Austria fully supports the efforts of the Tribunals to complete their work at the earliest date and to accomplish the completion strategy pursuant to resolutions 1503 (2003) and 1534 (2004). We note that, according to current projections, the Tribunals will not be able to meet the date set forth in the completion strategy but expect to complete their work by 2013. We urge the Tribunals to take all possible measures to complete their work expeditiously while maintaining all standards of fair trial and due process.

The arrest of the remaining fugitives remains a top priority for the completion of the Tribunal's work. We call on all States in the region, especially those where fugitives are suspected to be at large, to fully cooperate with the Tribunals. Austria welcomes Serbian efforts in tracking the fugitives Ratko Mladić and Goran Hadžić and hopes that positive results will be achieved in the near future.

We also welcome the efforts made by the Croatian Government — in particular by you, Mr. Prime Minister, and the Minister of Justice — and hope that these efforts will lead to a further strengthening of the constructive dialogue with the ICTY Prosecutor. Allow me to add, Mr. Prime Minister, that my Government is fully aware of your long-standing personal commitment to full cooperation with ICTY. We know that you have pursued this course since you took office, and we also know that under sometimes considerable difficulties, your commitment was instrumental in locating Ante Gotovina and transferring him to The Hague.

The referral of cases to competent national jurisdictions is an essential part of the completion strategy. However, it must be ensured that all referred cases are administered in a fair, impartial and even-handed manner. It is also essential that effective measures be in place to protect witnesses, enforce sentences and take action against those helping fugitives evade justice. We note that the ICTR Trial and Appeals Chambers have denied the transfer to Rwanda of all five cases requested by the Prosecutor. We hope that Rwanda's efforts to improve its judicial system and witness protection will enable the Prosecutor to re-apply for a referral of cases.

I would now like to give a brief update on the activities of the Informal Working Group on international tribunals since the beginning of this year. Since January 2009, the Working Group has held 12 meetings to discuss the establishment of a residual mechanism or residual mechanisms to carry out certain functions of the Tribunals after their closure.

Another meeting of the Working Group with the Presidents and Prosecutors present here today will take place this afternoon. There is agreement among the members of the Working Group that the most senior fugitives of the Tribunals must face international trial by the mechanisms. We also agree that the legacy and archives of the Tribunals must be preserved. It is further agreed that the mechanism or mechanisms will have a trial capacity to try fugitives from the ICTY and ICTR based on a roster of judges. The mechanism or mechanisms is or are to be small, temporary and efficient, commensurate with a reduced workload in the post-completion period.

The Working Group has continued with an in-depth examination of the eight residual functions identified by the Tribunals as essential and to be carried out after their closure: trial of fugitives; trial of contempt cases; protection of witnesses; review of judgments; referrals of cases to national jurisdictions, including revocation; supervision of enforcement of sentences; assistance of national jurisdictions; and maintenance of archives. Discussions on whether all or only some of these functions should be carried out by the mechanism or mechanisms are still ongoing.

The Working Group has also discussed the potential commencement date or dates of the mechanism or mechanisms, as well as its or their structure. This includes important issues such as whether there should be one or two mechanisms, or one mechanism with two branches, and the related questions of the possible co-location of the Tribunals' archives with the mechanism or mechanisms and its or their location. The discussions were informed by chairmen's non-papers, with input by the Tribunals, which were produced with the most valuable assistance of the Office of Legal Affairs.

The members of the Working Group also had an informal exchange of views with the members of the Management Committee of the Special Court for Sierra Leone. The Chair plans to convene informal meetings with representatives of the States of the former Yugoslavia and Rwanda and the host countries of the Tribunals, the Netherlands and Tanzania.

The Presidents of ICTY and ICTR have made a number of written requests related to the completion strategies, including the enlargement of the Appeals Chamber through the redeployment of trial judges, the extension of the judges' mandates and, as a temporary measure, the appointment of an additional ICTY ad litem judge in addition to the 12 ad litem judges authorized by the statute. These requests are currently being considered by the Working Group.

In its presidential statement of 19 December 2008 (S/PRST/2009/47), the Security Council requested the Secretary-General to present a report on the

administrative and budgetary aspects of the options for the possible locations for ICTY and ICTR archives and the seat of the residual mechanism or mechanisms for these Tribunals. It is my understanding that the report has been finalized in substance and will be published as an official Security Council document once it has been translated into all official United Nations languages. We intend to start discussing the content and recommendations of the report in the Working Group later this month. Subsequently, the Group will resume negotiations on the draft Security Council resolution to establish the mechanism or mechanisms.

In conclusion, I would like to thank the Presidents, permanent and ad litem judges, Prosecutors and Registrars of the ICTY and ICTR and all their staff for their tireless efforts in the name of international justice. Our special thanks go to the Office of Legal Affairs, the expertise and assistance of which is indispensable for our work.

Finally, I would also like to thank all the members of the Working Group for their active and constructive contributions to our discussions.

The President: I thank the Permanent Representative of Austria for his extensive briefing, and I thank him and his Group for the work that they are doing.

Mr. Le Luong Minh (Viet Nam): First of all, on behalf of the Vietnamese delegation, I warmly congratulate you, Mr. President, and the Turkish delegation on your assumption this month of Turkey's first presidency of the Council. In discharging your important task, you and your delegation can rely on the fullest cooperation of the Vietnamese delegation.

I would like to take this opportunity to convey to Ambassador Vitaly Churkin and the Russian delegation our sincere appreciation for their very effective leadership of the work of the Council in May.

I thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings. We thank the Tribunals for their very comprehensive reports and for the amount of work they have been able to accomplish, and note their commitment to continuing their efforts to expedite the completion of their mandates.

According to their most recent projections, both Tribunals will be conducting first instance trials beyond the end of 2009 and appellate proceedings after 2010. While acknowledging that there have been unexpected and uncontrollable factors that have caused the delay of trials, my delegation is concerned about the continuing lateness in transferring accused to the custody of the Tribunals, and about the fact that all requests made by the ICTR Prosecutor for referrals to Rwanda have been denied and that both Tribunals are faced with difficulties in retaining their current, highly qualified staff.

In resolution 1534 (2004), the Security Council expressed its determination to review the implementation of the completion strategies of the Tribunals and to ensure that the time frames set out in the completion strategies and endorsed by resolution 1503 (2003) could be met. While assessments and decisions of the Council have been and will be made in accordance with corresponding realities, we deem it necessary to urge the Tribunals to take all necessary measures to meet the requirements of the completion strategies, and we call on all Member States to cooperate fully with the Tribunals to help them achieve an early completion of their work. We support all efforts aimed at strengthening the competent national judicial systems to facilitate the transfer of cases involving intermediate and lower-rank indictees, including the fugitives, from the Tribunals to national jurisdictions.

During the past 18 months, the Informal Working Group of the Security Council on international tribunals, under the chairmanships of Belgium and Austria, has been intensively discussing a possible residual mechanism to replace the ICTY and the ICTR in their post-completion period. We support the efforts made by the Working Group in this regard and consider them to be important inputs for further informed decisions by the Council on the completion strategies for the Tribunals.

In conclusion, we are at a critical juncture of our joint undertaking for the smooth and effective completion of the Tribunals' work. We need to ensure that the two Tribunals receive all necessary guidance and support, including sufficient resources to complete their mandates and address their legacy issues as advisedly as possible.

Mr. Liu Zhenmin (China) (*spoke in Chinese*): The Chinese delegation wishes to congratulate Turkey on its assumption of the presidency of the Security Council for this month. We also wish to express our gratitude to the Russian Federation for its presidency of the Council last month.

On behalf of the Chinese delegation, I wish to thank President Robinson and Prosecutor Brammertz of the International Tribunal for the Former Yugoslavia for their briefings on the activities of the Tribunal. We also thank President Byron and Prosecutor Jallow of the International Criminal Tribunal for Rwanda (ICTR) for their briefings on the activities of the Rwanda Tribunal.

Since the completion strategies of the two Tribunals were endorsed by the Security Council, they have worked hard to implement the strategies and continue to make progress, as borne out once again by the advances achieved during the reporting period. We express our appreciation and acknowledgement of that progress, but given the trials still under way in the two Tribunals, the schedules set out in the completion strategies will have to be pushed back. Of course, many factors have contributed to the delay. We hope that the two Tribunals will be more proactive in building on past work by intensifying their efforts and adopting an innovative approach to improving their working methods so that a breakthrough can be achieved. All available resources must be fully utilized to improve the efficiency of the trial process and thereby accelerate it.

In the meantime, we continue to believe that the transfer of cases and accused to national jurisdictions is an important step in the implementation of the completion strategies. We are pleased to note that the Tribunals have reaffirmed that idea in their reports. The ICTR Prosecutor has made very specific suggestions in that regard. We hope that the two Tribunals, and the ICTR in particular, will step up their activities in that respect so that the concept can be effectively implemented, ensuring the transfer of as many cases and accused as possible.

The Informal Working Group has continued to study the question of the legacy and residual functions of the Tribunals. I wish to thank the Ambassador of Austria for his concise but comprehensive briefing on the work being undertaken. The presidential statement issued by the Security Council on 19 December 2008 (S/PRST/2008/47) referred to this issue, noting that the proposed ad hoc mechanism should be small, temporary, and efficient. That basic principle has always guided the Working Group's consideration of the matter. We are in favour of identifying a feasible and economical plan on that basis. We also favour the provision by the two Tribunals of advice and proposals to the Informal Working Group during the current reporting period. Some of their proposals are constructive and reflect innovative thinking. We reiterate our readiness to adopt a positive approach to the consideration of any plan that would help speed up the implementation of the completion strategies.

The Secretary-General shall submit, upon the request of the Security Council, a report on the administrative and budgetary issues related to the residual mechanism. We are confident that it will facilitate the ongoing work of the Informal Working Group. We understand that the preparation of the report is no easy task. We thank the Secretariat for its efforts and look forward to receiving that document at an early date.

The completion strategies, as endorsed by the Council, are an overarching goal and should be pursued at every phase of the process. In recent years, the two Tribunals have made some progress in the implementation of the strategies, but the work ahead is enormous. We expect the Tribunals to continue to work in that direction.

Mr. Parham (United Kingdom): First, let me congratulate you, Sir, on your assumption of the presidency of the Council this month, and say how much we look forward to working with you and your Mission. We assure you of our support. I should also like to thank Ambassador Churkin and his Mission for their skilful presidency of the Council last month.

I welcome Presidents Byron and Robinson and Prosecutors Jallow and Brammertz to the Council, and thank them for their briefings on the implementation of the completion strategies of the International Criminal Tribunals for the former Yugoslavia and Rwanda. These reports indicate that the work of the two Tribunals is not now likely to finish until 2013, at the earliest. My Government appreciates that both Tribunals continue to face significant challenges in completing their work. Some accused have been arrested at a late stage. Both Tribunals still have heavy caseloads, including complex multi-accused cases.

Trials have been delayed due to the ill health of some accused, and there have been large numbers of contempt cases. These are just some of the issues being faced.

Nevertheless, the slippage in the completion timeline is of concern. My Government acknowledges the efforts which have been made so far by the principals of the Tribunals and their staff to facilitate completion, but we emphasize that it is vital that both Tribunals continue to do everything possible to minimize further delays in a manner consistent with delivering fair trials for all the accused, including by exploring and implementing further efficiency measures.

We hope that the Tribunals will continue to maximize the use of available judicial time and courtroom space. At the same time, we believe that it is important for the Security Council to support the Tribunals and to take the necessary decisions to allow them to complete their work, including by granting appropriate extensions to judges' mandates and allowing the redeployment of judicial staff to the Appeals Chamber.

We recognize the two Presidents' continuing concerns about staff retention as the Tribunals near completion. These issues are not primarily matters for the Security Council; however, we would encourage the Tribunals to explore non-monetary incentives to retain staff, particularly by awarding contracts in line with completion time scales, as decided by the General Assembly.

Full and effective cooperation from States is critical to ensuring that the Tribunals are able to fulfil their mandates. My Government warmly welcomes Prosecutor Brammertz's report of improved cooperation by Serbia on access to documents and in operational-level efforts to locate the fugitive indictees Ratko Mladić and Goran Hadžić. Overall, my Government believes that Serbia has now established a strong record of cooperation which should be recognized. So we regret that this record has on two recent occasions been undermined by contradictory public messages from Serbia accusing the Tribunal of bias. We hope that the Serbian authorities will in future avoid such remarks, which could otherwise negatively affect the willingness of Serbian citizens to assist the Tribunal as witnesses or by providing other information.

My Government is disappointed, however, that Croatia has still not been able to deliver a range of key documents for Gotovina trial. We fully support the Prosecutor's efforts to pursue this issue. We call on Croatia to maintain the search for missing documents and for its administrative investigation to be backed up by criminal charges where there is evidence of illegal removal or destruction of documents. This remains an area where further work is needed against a background of otherwise solid cooperation.

As regards cooperation with the International Criminal Tribunal for Rwanda (ICTR), we note with concern Prosecutor Jallow's oral report that problems of cooperation with Kenya remain unresolved. It is vital that all States where fugitive indictees are suspected to be at large, particularly Kenya and the Democratic Republic of the Congo, provide full and immediate cooperation to facilitate their arrest and surrender to the Tribunal. Those who have committed serious crimes in Rwanda must face justice.

The two Tribunals have made an enormous contribution to restoring peace and security in their regions through combating impunity for the most serious crimes. Their legacy must be preserved after the Tribunals close their doors. A key element of this will be the establishment of an effective and sustainable residual mechanism to carry out core residual functions, including the prosecution of remaining fugitive indictees.

We look forward to intensifying our discussion of these issues in the light of the forthcoming report of the Secretary-General and with a view to reaching agreement this year on the residual mechanism's structure and remit.

Mr. Churkin (Russian Federation) (*spoke in Russian*): Allow me to thank the leadership of both Tribunals for their briefings and for the reports they have submitted to the Security Council on their completion strategies.

We note that the International Criminal Tribunal for Rwanda (ICTR), notwithstanding existing difficulties, has worked fruitfully over the past six months. During that period, four judgments have been rendered with respect to seven accused and, in six cases featuring 14 accused, hearings have been concluded. The Tribunal is also planning by the end of 2009 to complete the most labour-intensive and protracted phase — the submission of evidence — in

all outstanding trials of first instance with one exception.

Regrettably, the results of the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) are unimpressive. In the reporting period, only one judgment has been rendered, and that was in a trial that ended in August 2008. In the ICTY case files, there remain four cases in respect of six accused for which hearings have not even begun. The accused in these cases have been at the disposition of the Tribunal since June 2003 — six years in custody and yet hearings have not even begun. We consider that situation unacceptable and a violation of civilized standards of justice and commonly accepted human rights norms. It is all the more difficult to understand given that the ICTY has the legal option of transferring cases to national jurisdictions.

We are also bewildered by the emerging practice of suspending the main court proceedings until contempt cases are resolved. The Tribunal put on a heightened display of principle concerning the safety of witnesses in the case of Vojislav Šešelj, in connection with a book he published, whereas, in the case of Ramush Haradinaj, the former Prime Minister of Kosovo, in which the physical elimination of some witnesses and overt intimidation of others were involved, the Tribunal effectively turned a blind eye to those problems. Protracting the main trials until contempt of court hearings are completed has an adverse effect on the implementation of the ICTY completion strategy.

We cannot fail to be concerned by the assessments in the report of the President of the ICTY on tentative dates for completing first instance hearings and appellate proceedings, extending to mid-2013.

At this stage, the task of ensuring a suitable degree of cooperation between States — first and foremost those of the region — and the Chief Prosecutors of the Tribunals is of particular importance. We have observed some progress in maintaining interaction between the ICTY and Serbia. This was borne out not only by the assessment of Chief Prosecutor Brammertz, but also by the factual material on the matter provided by the Serbian side to members of the Security Council on the eve of our meeting.

One can detect a certain dynamic in relations between the ICTR and the State and judicial institutions of Rwanda. At the same time, the Russian Federation continues to be concerned by the instances, referred to by the Chief Prosecutors, of the failure of States to properly comply with their obligation to cooperate with the Tribunals, including in the provision of documents needed for investigation and tracking the accused. Those factors not only hold up proceedings on specific cases, but have a negative effect in general on the Tribunal's ability to reach objective verdicts.

In conclusion, I wish once more to reaffirm the position of the Russian Federation that both Tribunals should be guided by the time frames laid down by the Security Council and do everything possible to ensure that the bulk of their work is completed by the end of 2010. The failure to bring a number of accused before the ICTR and the ICTY cannot be viewed as justification for the unlimited extension of the activities of those organs. Given the looming deadlines, we will seek the best options for the proposed mechanisms for the Tribunals' residual functions. In that context, we wish to thank Ambassador Thomas Mayr-Harting for the effective Austrian chairmanship of the Security Council Working Group on international tribunals. We note progress in the discussion of issues related to the forthcoming completion of work of the Tribunals. My delegation expects that by the end of the year, the Council will manage to draft an agreed text of a resolution on the parameters of the residual functions of those temporary organs of international justice.

Mr. Mugoya (Uganda): My delegation congratulates you, Sir, and Turkey on assuming the presidency of the Council for the month of June, and I assure you of our delegation's full cooperation and support. I also wish to thank Ambassador Churkin and the Russian delegation for ably steering the work of the Council during the month of May.

We thank the Presidents and Prosecutors of the Tribunals for their briefings. Uganda welcomes the Secretary-General's report on the administrative and budgetary aspects of the options for possible locations for the archives of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) and the seat of the residual mechanisms for the Tribunals.

My delegation appreciates the tremendous work that has been carried out so far by the Tribunals in fulfilment of the relevant Council resolutions. We attach great importance to the work of the Tribunals in

the delivery of justice and the fight against impunity for heinous crimes against humanity, including genocide.

Uganda welcomes the progress made by the Tribunals in spite of the challenges they have faced. From the Secretary-General's report, we have observed that some of the challenges include trial of contempt cases and the protection of victims and witnesses, which require the judicial capacity to sanction any violations of the Tribunals' orders.

Uganda welcomes the recommendation of the Secretary-General that, as part of the completion strategy, the residual functions be transferred to residual mechanisms which would be adequately supported by a structure that can facilitate the fulfilment of the completion strategy. In that regard, my delegation supports the recommendation that the Tribunals refer further cases to national jurisdictions, while strengthening national capacities.

In order to activate the residual mechanisms, it will be necessary to adopt and use the roster of former Tribunal judges, legal officers, prosecution and defence counsel, and other relevant staff. This undertaking will provide support for the institutional knowledge that is essential to the ends of justice and the completion strategy.

Uganda welcomes the recommendation for the location of the residual mechanisms and archives both in Europe and Africa, the regions where the crimes were committed. The basis for this suggestion is that the residual mechanisms will require access to the regional records for each Tribunal, as well as new records that will become available.

Both Tribunals have requested the extension of the mandate of the permanent and ad litem judges, the expansion of their Appeals and Trial Chambers, and redeployment of trial judges. It is understood that a number of cases have yet to be completed, some of the judges have their terms coming to an end, and the status of ad litem judges has raised issues that require urgent attention. Since there is still-unfinished business, Uganda supports these requests for extension.

The ad litem judges have made an invaluable contribution to the functioning of the Tribunals and to the completion strategy. They have been assigned multiple cases and have of necessity been forced to take up permanent residence at the sites of the Tribunals. Their tasks and competencies are identical to those of the permanent judges, and nearly half the judges at the ICTR have served for more than six years. Accordingly, Uganda calls for a review of their terms and conditions of service.

Finally, I would like to thank the Presidents, Prosecutors, judges, ad litem judges and the staff members of the Tribunals for their work, and call on the Council to render the necessary support to ensure the early, smooth and orderly conclusion of the work of both Tribunals.

Mr. Lacroix (France) (*spoke in French*): At the outset, Mr. President, I would like to express our great satisfaction in seeing you assume presidency of the Security Council. We assure you of our support for the Turkish delegation in the exercise of its presidency. We also express our gratitude to the Permanent Representative of the Russian Federation and his delegation for the great skill with which they stewarded the work of the Council last month.

I would like to welcome the presence of the Prime Minister of Croatia, His Excellency Mr. Ivo Sanader, in the Security Council today.

I would also like to thank the Presidents and Prosecutors of the International Criminal Tribunals for Rwanda and the former Yugoslavia for presenting their six-monthly reports. These briefings clearly confirm that the deadline laid down in 2003 and 2004 in the completion strategy for the Tribunals will be missed and that their work will continue beyond 2010. Constraints of procedure, the vagaries of justice, belated arrests of fugitives and, for the International Criminal Tribunal for Rwanda (ICTR), the obstacles to referring low-ranking indictees to national jurisdictions explain this delay in the timetable. Whatever the case, the Security Council must now take into account the reality of a horizon for the completion of appeals delayed until the first half of 2013 and draw the necessary conclusions from that.

The first thing to be done is to equip the Tribunals with the means to carry out the trials and appeals as soon as possible, in full respect for the rules of fairness and justice. In this regard, the joint request of the two Tribunals concerning redeployment of trial judges to the shared Appeals Chamber reflects to real need and must be honoured.

We also welcome the principle of extending the terms of office of permanent and ad litem judges. The Working Group on international tribunals will have to propose modalities for this extension, but we hope that the decision taken by the Council will clearly establish its resolve to ensure that the Tribunals are in a position to carry out their work to the very end.

Affording the Tribunals appropriate predictability is a necessity, especially in order to maintain the quality of staff, whose members, forced into a state of uncertainty, are inevitably tempted to seek more stable jobs. The success of the completion strategy obviously depends on the participation of a qualified and motivated staff, and the current attrition rate is worrying in this regard. The President of the International Criminal Tribunal for the former Yugoslavia (ICTY) made that point earlier.

Once again, I would like to express to the Tribunals and their staff France's appreciation for the considerable efforts that they will have to make in the difficult phase of completing their work. I would highlight with satisfaction the ongoing efforts to improve the management of proceedings, which will make it possible to intensify the rate at which the Trial and Appeals Chambers work.

The activities of the Prosecutors are also essential, especially with respect to tracking down fugitives, whose arrest and transfer to the Tribunals are a priority. The existence of fugitives from justice is one of the main elements of uncertainty looming over the completion strategy, but the mission of the Tribunals will not be fully completed as long as those accused have not been arrested and tried.

We are firmly committed to the principle that those responsible for the most heinous crimes must be tried by the International Criminal Tribunals. The arrest of Mr. Karadžić was a major breakthrough for the ICTY. We now await those of Mr. Mladić and Mr. Hadžić, and we note with satisfaction Prosecutor Brammertz's positive assessment of the cooperation of the Serbian authorities in this connection. Once again, I would like to recall that full cooperation with the ICTY, be it in the search for fugitives or the conduct of proceedings, is an essential element of the stabilization and association strategy vis-à-vis all the countries of the region of the former Yugoslavia, which is a strategy that the European Union is pursuing. We call on all of these countries to extend all necessary assistance to the Tribunal.

With regard to the International Criminal Tribunal for Rwanda, 13 accused, four of whom are high-ranking indictees, are still at large. We call on all States concerned to afford Prosecutor Jallow the requisite cooperation. In particular, we call on Kenya to honour its obligations to arrest and hand over Félicien Kabuga to the ICTR.

We hail the efforts made by Rwanda to reform its legislation in order to lift all legal obstacles to transferring cases to its jurisdiction and allowing low-ranking fugitives not to be tried by the Tribunal. I would like to recall that if the fugitive issue is not resolved quickly, it will have to be dealt with in the context of managing the legacy of the Tribunals, because it would be unacceptable for their closure to represent impunity for fugitives. This function will fall to the management mechanism for the essential residual functions to be established after the Tribunals are closed.

The Council's Informal Working Group on international tribunals has continued to work on this issue under the efficient stewardship of Austria. The past six months have made it possible for the Group to deepen its consideration of the subject with the participation of new Council members and the very useful contribution of the Secretariat's Office of Legal Affairs. I would also like to thank the Presidents, Prosecutors and Registrars of the two Tribunals for continuing their excellent cooperation of the Working Group.

The Permanent Representative of Austria made a specific point a moment ago on the state of play in the Working Group. I shall not dwell on that point. My delegation would simply like to stress that my country takes part in its work in the hope that the Council will in due course adopt a decision conducive to fully safeguarding the integrity of the Tribunals' legacy. It would be inadmissible for the United Nations to neglect its duty to ensure that the residual functions necessary to the administration of justice will be guaranteed after the end of the Tribunals under its auspices and in the context of an effective mechanism.

Various possibilities can be contemplated for devising this mechanism, which will need to be appropriately modest and lean. But it is essential that it allow the judicial work of the two Tribunals to go on

uninterrupted and in respect for the highest demands of fairness and justice.

The ICTY and the ICTR have embodied the international community's rejection of impunity for the most serious crimes against the human conscience. They must conclude their task soon, and it is up to the Council to adopt decisions conducive to fully ensuring their legacy.

Mr. Gouider (Libyan Arab Jamahiriya) (*spoke in Arabic*): Let me assure you, Mr. President, of our delegation's full support for your leadership of our work in the Council this month. We would also like to pay tribute to the efforts to the Russian presidency of the Council last month.

At the outset, allow me to welcome the presence among us today of the two Presidents of the International Criminal Tribunals, Judges Patrick Robinson and Dennis Byron, and Prosecutors Serge Brammertz and Hassan Bubacar Jallow. We thank them not only for their comprehensive briefings but also for the excellent work they have done and continue to undertake with their teams.

We need not recall resolution 1503 (2003) on the completion strategies for the two Tribunals, or remind the Tribunals that they must take all necessary measures to complete their trials by 2010, nor yet underscore resolution 1534 (2004), which stresses the importance of the full implementation of the strategies.

There is no doubt that the briefings we have just heard attest to the tangible progress in implementing the provisions of the strategies. That having been said, we note that circumstances have arisen beyond the control of the two Tribunals, leading to an unprecedented increase in the workload of both Tribunals that has important implications for the timeframe of the completion strategies and the resources needed for their full implementation.

Like other delegations, we wish to underscore the importance of the Tribunals completing their work as soon as possible without, naturally, undermining the imperatives of justice. In our view, it is also necessary to provide them with the financial and human resources support they require. It is would also be desirable for us to look favourably on the requests that they have recently submitted along those lines. Indeed, it is clear that implementing the completion strategies will require extending mandates, expanding certain Chambers and redeploying judges, while ensuring that qualified administrative and judicial staff are working in motivating conditions that are also satisfactory at the contractual level, given the fact that the two Tribunals are facing serious difficulties in retaining qualified personnel.

Furthermore, we reiterate the need for ongoing efforts to transfer or refer cases to national jurisdictions in the context of the completion strategies. We are fully aware of the obstacles confronting the Tribunals' efforts, in particular in the case of the International Criminal Tribunal for Rwanda, as the President of that Tribunal pointed out in his remarks. Such referrals to national courts would lighten the Tribunals' caseload and facilitate the transfer of their archives. The archives could well turn out to be more important than the judicial proceedings in framing the history of those events and facilitate national reconciliation with respect to the events that took place. In addition, the assumption of these cases by national jurisdictions would reflect the principles of the rule of law and fairness.

We are aware that circumstances have changed since the two Tribunals were established at the end of the last century. They were set up as ad hoc bodies in the context of temporary measures aimed at restoring and safeguarding peace and security in the countries concerned. Today, those countries, which were the scenes of crimes and remain the sources of witnesses and evidence, enjoy peace and security. They have seen their judicial capacities strengthen and their legislations develop, allowing them to be seized of such trials and cases within the framework and principles of impartial justice that enjoys the support and assistance of the international community.

In conclusion, implementing the completion strategies for the Tribunals' work is closely linked to the need for the Council to decide as soon as possible on the legacy of the two Tribunals and the remaining trials following completion through well structured international mechanisms whose future functions and resources are clearly defined. The Informal Working Group on international tribunals is working precisely to that end under the chairmanship of the Austrian delegation. We would like to underscore and commend the excellent work being done by the Working Group with the support of the Secretariat and, in particular, of the Office of Legal Affairs.

We also commend the praiseworthy efforts of the two Tribunals. We greatly hope that those efforts bear fruit and that we shall reach the best possible solutions as soon as possible.

Mr. Kafando (Burkina Faso) (*spoke in French*): Allow me at the outset, Mr. President, to welcome the Minister for Foreign Affairs of your country and to take this opportunity to congratulate you on Turkey's assumption of the presidency of the Security Council for this month. I also wish to commend Ambassador Churkin and his team for their effective conduct of the presidency of the Security Council last month. I should also like to welcome the Prime Minister of Croatia and, of course, to thank the Presidents and Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) for their briefings and their very eloquent advocacy. I would not want to fail to thank Ambassador Mayr-Harting for the comments he has just made with regard to the work of the Security Council's informal working group on international tribunals, over which he so effectively presides.

Recent months have seen intense activity for the ICTR and the ICTY, as well as for the Trial and Appeals Chambers. The briefings that we have just heard from the Presidents and Prosecutors reveal that the Tribunals took practical steps that made it possible to make tangible progress with regard both to the treatment of issues and to the management of procedures and staff and the use of judges. They have done all that effectively and while keeping in mind the demands of the deadlines set by the Security Council. We encourage them to continue their outreach and capacity-building efforts, in particular through the establishment of information and documentation centres.

Above all, we call on them to continue to work along the same lines, given that the information available to us indicates that, for instance, the ICTR is currently facing an unprecedented rise in the volume of its work. We believe that, in order to address that workload, the ICTR should make every additional effort necessary to send cases of lower ranking accused to national jurisdictions. We believe that option to be an important component in implementing the completion strategy for the Tribunal that was adopted by the Security Council.

Likewise, the international community, and the States of the subregion in particular, should provide unwavering support and cooperation to the Tribunal in finding and arresting the 13 remaining fugitives, especially high-ranking accused, who must necessarily be tried by the Tribunal. It seems crucial to us that the primary persons responsible for the Rwandan genocide should be tried by the Tribunal established for that purpose.

Statistics concerning the ICTY indicate that the Tribunal is far along in its completion strategy. We are very pleased at the successful transfer of cases, not only because of its impact on the implementation of the completion strategy but also because it will make it possible for lower ranking indictees not to have to wait too long for decisions in their cases. We call on the Prosecutor to continue to follow such cases very closely.

Given the practical problems facing the Tribunal, we hope that the reassignment of judges and the arrival of an additional ad litem judge will enable the ICTY to continue to intensify the pace of its work in order to complete it within a reasonable time frame. To that end, it is important that the Tribunal's capacity be fully utilized.

Although the deadlines set out by the Council are no longer timely, the Tribunals must nevertheless keep in mind the need for expeditiousness and must, in particular, redouble its efforts with regard to speeding up investigations and trials and reducing delays in the pretrial process, without undermining the quality of its work.

I would like in passing to raise the issue of the status of ICTR ad litem judges, which is a clear concern for the Tribunal's President. Although ad litem judges were in theory elected to serve on a temporary and ad hoc basis under a three-year mandate, statistics indicate that many of them have worked on a permanent basis for five years or more. It would therefore only be fair to address the issue of the benefits associated with being a judge, which should normally also apply to ad litem judges, given the conditions of their service and the new responsibilities that have been given to them by the Tribunal in accordance with resolution 1855 (2008).

Burkina Faso is following with interest the work of the Security Council's informal working group on tribunals, which has held intensive discussions

pertaining to the list of residual functions, the character and structure of the residual mechanisms and the issue of the Tribunals' archives. It would now be desirable for the possible options agreed by the group's members to be included in a draft resolution to be submitted to the Security Council for a decision as soon as possible. As to the size of the residual mechanism, we believe that the working group's discussions should, as a matter of priority, consider the issue of two separate mechanisms, or one mechanism with two distinct arms, so as to take into account the basic differences between the Tribunals and the level of implementation of their respective completion strategies. In any case, everything points to the fact that the discussion of this issue will not produce a result unless the Tribunals first take steps to reduce their tasks in line with the progress made in their respective completion strategies.

We take note of the discussions pertaining to the issue of the management of the Tribunals' archives. We believe that, although they are the property of the United Nations, the archives also constitute historical memory and, as such, are part of the patrimony of the countries where the tragedies that led to the establishment of the ad hoc Tribunals occurred. We believe that the proposals of the working group with regard to where the archives are to be housed should take into account that basic point, as well the issues of security and accessibility.

We believe that all the issues taken up by the informal working group cannot be solved at once. It would therefore be desirable to adopt a selective and gradual approach, rather than a comprehensive one.

Mr. Heller (Mexico) (*spoke in Spanish*): At the outset, Sir, allow me to congratulate you on your assumption of the presidency of the Security Council for this month. I should also like to commend Ambassador Churkin of the Russian Federation for his presidency in the month of May. We would also like to say how honoured we are to have among us here today in the Council the Foreign Minister of Turkey and the Prime Minister of Croatia.

My delegation is grateful to the Presidents and Prosecutors of the International Criminal Tribunals for Rwanda and the Former Yugoslavia for their introduction of their biannual progress reports (see S/2009/247 and S/2009/252) on the status of progress on their completion strategies. Both reports describe the concrete measures that the Tribunals have taken to complete their work within a reasonable time frame. Mexico would like to acknowledge the efforts made by both Tribunals to expedite their judicial functions in a responsible and efficient way while also ensuring the crucial goal of meting out justice and preventing impunity for criminal acts over which they have jurisdiction.

Despite such efforts, I should point out that both reports detail for the Security Council the reasons why it is extremely difficult to imagine that the Tribunals will finish their work by the end of this year, as called for by resolutions 1534 (2004) and 1824 (2008). In these circumstances, Mexico believes that the Security Council will have to maintain a pragmatic and flexible approach with regard to the Tribunals' completion strategies. In both cases, they face the challenge of striking a balance between attaining the objective for which they were set up, that is, to judge and to prevent impunity, to ensure efficiency in financial and budgetary matters and to discharge their obligation to uphold the fundamental rights of the alleged offenders, the witnesses and the victims of the crimes under their jurisdiction.

In this regard and as a result of the work carried out by the informal Working Group on international tribunals — our colleague from Austria has given us a very precise and detailed outline of that work — Mexico believes that the completion strategies must continue to adhere to the following interconnected principles.

The first is the gradual completion of the Tribunals' mandate. As mentioned in the reports before us at this meeting, the task of guaranteeing a smooth transition between the closing of the Tribunals and the establishment of the residual mechanism requires great care. In this regard, the deadlines for the conclusion of work, which have been extended, must be realistic and reasonable and must take into account the caseload and the resources at the disposal of both bodies.

In the light of this, Mexico is of the opinion that these deadlines should be viewed as desirable indicative dates, subject to the realities facing the Tribunals in the light of how their respective cases evolve. Of course, this must not be construed as meaning that we believe that the mandate of the Tribunals must be extended indefinitely. We believe that the Security Council must monitor the work of the Tribunals very closely and adapt its decisions

accordingly, so that it can support the gradual winding-down of their work in the most efficient, swift and economical manner possible. We also believe that the most appropriate course of action would be for the Tribunals to conclude their work in the very near future, but not on the basis of arbitrary dates.

The second principle is the referral of new cases to local jurisdictions. One of the key actions for dealing with the caseload of the Tribunals and contributing to the development of capacities for the administration of justice in the States concerned is the referral of new cases to national jurisdictions.

However, to achieve this, it is essential for a number of conditions to be met. One of these is that the characteristics of new proceedings, such as the identity and high rank of the alleged offenders and the gravity of the crimes attributed to them, and the security conditions for participating witnesses and victims actually make that possible. In other words, we support referrals to national jurisdictions except in those cases when the implications are such that it may be necessary to deal with these cases in the appropriate International Tribunal.

Another condition is that there should be certainty with respect to the will and capacity of the local jurisdiction to carry out the trials. Regarding this condition, it is important to underline the fact that the report on the ICTR points out that there are still major challenges before certain basic conditions can be guaranteed in terms of national jurisdictions applying international standards.

The third principle is to continue devising mechanisms that make it possible to reduce the number of judges and the staffing levels in other areas of the Tribunals. In trying to ensure that the gradual winding-down of the work of the Tribunals responds to financial and budgetary concerns, it is important to continue to support the devising of mechanisms, such as those already proposed, to reduce the number of judges on the basis of the procedural stages in which most of the trials currently stand. In this respect, Mexico acknowledges the merit of the proposals put forth by both Tribunals with respect to redeploying judges to bolster the Appeals Chamber, which will be charged with carrying out most of the judicial work in the near future.

Lastly, on the establishment of the residual mechanism or mechanisms that will take on the functions of the Tribunals, Mexico believes that beyond the decision of the Security Council with respect to establishing one mechanism for each Tribunal or a common one — the latter being the option we certainly support — we must continue to consider very carefully and in detail the various aspects of the establishment of such a mechanism, such as its mandate, functioning, composition and budget.

Nonetheless, we wish to emphasize that, even when it is in the midst of such painstaking considerations, the Council should not fail to keep its focus on the main objective, which is to guarantee that justice is done vis-à-vis the perpetration of the crimes and atrocities committed during the conflicts in the former Yugoslavia and Rwanda and to combat impunity for the most heinous crimes against humanity.

With these considerations, Mexico will continue to work over the coming months to contribute to the successful implementation of the completion strategies of both Tribunals.

Mr. Okuda (Japan): Since this is the first time that my delegation takes the floor in this Chamber under your presidency, Mr. President, allow me to start my remarks my congratulating you, Ambassador İlkin, for your assumption of the presidency of the Security Council. I would also like to take this opportunity to express my appreciation to the Russian representative and his staff for the very professional way in which they conducted the work of the Council during the month of May.

At the outset, I would like to express my appreciation to the Presidents and the Prosecutors of the respective Tribunals for briefing us on the most recent developments concerning their completion strategies. The contribution of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) to the development of international criminal law cannot be overstated. In this regard, we would like to extend our appreciation to all the judges, Prosecutors and staff members for exerting their utmost efforts to ensure the fair and expeditious operation of these important judicial bodies.

Today's briefings clarified the estimated timetables for future proceedings. Japan has been expecting and strongly urging the Tribunals to complete all judicial proceedings in 2010, in accordance with resolution 1503 (2003). Based on

today's reports, we have to admit that meeting these goals is no longer realistic. Nevertheless, we strongly encourage the Tribunals to continue their efforts to complete their work as expeditiously as possible, hopefully by the end of 2012 rather than the latest estimated completion date of mid-2013.

We have heard that the Tribunals' requests for measures such as the extension of the terms and redeployment of some of the judges, which are necessary to accomplish the completion strategy in an expeditious and cost-effective manner. Based on this understanding, Japan is prepared to work on the necessary measures to be taken by the Council at this stage.

Resolving the issue of the fugitives is of paramount importance for the success of the Tribunals. It is regrettable that two suspects indicted by the ICTY and 13 by the ICTR, including Kabuga, have yet to be apprehended. We encourage the relevant States to cooperate in order to arrest them as soon as possible. It is also unfortunate that the transfer of cases to national courts has not been completely successful. However, in the light of further efforts to address this issue on the part of the national courts, we expect that additional transfers will be possible in the near future.

Given that the ICTY and the ICTR were established by Security Council resolutions adopted under Chapter VII of the Charter as exceptional measures, they are facing challenges unique to ad hoc Tribunals, namely, a residual mechanism after completion, which was not fully anticipated at the time they were established. Japan attaches great importance to the rule of law and considers that impunity in cases of the most serious crimes should not be condoned and that the individuals involved should be brought to justice in accordance with international standards. The residual mechanism should serve to this end, while efforts must be made to maintain as cost-effective a system as possible.

Since January this year, there has been an extremely useful and intensive discussion taking place in the Informal Working Group on international tribunals under the chairmanship of Austria, with the assistance of the Office of Legal Affairs. We will continue to take active part in the discussion, paying due attention to the progress of the proceedings at the Tribunals. We also take note of the briefings on the necessity of staff retention for the work of the Tribunals.

Ms. DiCarlo (United States of America): Let me join others in congratulating you, Sir, on assuming the presidency this month. You can be assured that you will have the full cooperation of the United States. I should also like to thank Ambassador Churkin and the delegation of the Russian Federation for their skilful stewardship of the Council in May.

I welcome Presidents Robinson and Byron and Prosecutors Brammertz and Jallow to the Council today and thank them for their briefings. Let me commend them and the Tribunals' judges, registrars and staff for their dedication to justice.

We also note the importance of the Informal Working Group on criminal tribunals, and I should like to commend the work of its Chairman, Ambassador Mayr-Harting of Austria, as well as the efforts of the United Nations Office of the Legal Counsel.

The International Criminal Tribunals for Rwanda and the former Yugoslavia have carried out the vital tasks of fighting impunity and creating a lasting record of atrocities not long past. We recognize the importance of drawing down the Tribunals smoothly and efficiently. We applaud the work that the Tribunals have done thus far to create a durable residual mechanism, and we urge both Tribunals to continue to strive to complete their work at the earliest possible date.

The goal of completing the trials by 2008 has not been met, but we recognize that efforts are under way to increase efficiency and to wrap up the work through the use of ad litem judges, extensions and the redeployment of trial judges to the Appeals Chamber. My Government supports these initiatives. We believe that the Tribunals' requests to extend the terms of judges should be honoured by the Security Council, at least through the upcoming biennium.

Those indicted by the Tribunals for committing some of history's worst crimes should not be allowed to escape justice. We must search vigilantly for the 15 indicted individuals who remain at large. The United States calls on all States to fulfil their legal obligations to fully cooperate with the Tribunals.

Let me pass on our concern about reports that a fugitive from the Rwanda Tribunal, Félicien Kabuga, is at large in Kenya. We are particularly troubled by the

Tribunal Prosecutor's assessment that the Government of Kenya has not complied with requests set out in March 2009, including calls for Government records about Kabuga's assets and details of the Kenyan Government's claim that Kabuga has left the country. The United States calls on the Government of Kenya to act immediately on the Tribunal's recommendations and to take additional steps to deny Kabuga access to his networks of support.

We understand the Government Rwanda's desire to receive transfer cases from the International Criminal Tribunal for Rwanda. We appreciate the Tribunal Prosecutor's support for that effort and we commend the work done by Rwanda and other countries to build up the capacity the Rwandan legal system needs to make such transfers possible. Ensuring that the Tribunal can transfer cases to Rwanda and other States, as appropriate, is an important step towards fulfilling the Tribunal's strategy for completing its work. The Tribunal transferred information on some of its Rwandese Patriotic Front (RPF) investigations to Rwanda's domestic courts in June 2008, and four RPF officers face trial. We ask the Tribunal to share whether it expects any further cases that deal with the RPF.

Regarding the International Tribunal for the Former Yugoslavia, we once again call on States to cooperate fully with its work. We recognize the Government of Serbia's efforts to apprehend and transfer those indicted by the Tribunal, including the capture of Radovan Karadžić last July. The United States calls on Serbia to locate, arrest and transfer the two remaining fugitives, Ratko Mladić and Goran Hadžić. The arrest of those two fugitives is crucial to completing the Tribunal's mandate.

We also recognize Croatia's efforts to fulfil its obligations to cooperate with the Tribunal. The Government of Croatia has facilitated the arrests of all Croatian suspects and established a solid record of cooperation with the Tribunal. We urge Croatia to continue this record, and we remain hopeful that there can be a swift, satisfactory resolution of the issues of the documents sought by the Tribunal Prosecutor in the Gotovina case.

We urge the countries of the region to continue to improve cooperation among themselves. Balkan and African States must share information better, allow the transfer of war-crimes proceedings between States where appropriate, and break down the barriers that obstruct the extradition of accused war criminals. Regional cooperation is crucial to bringing such criminals to justice.

Finally, the United States remains committed to creating an efficient, cost-effective residual mechanism that will ensure that war criminals cannot escape justice. We thank the Presidents, Prosecutors, registrars and their staff for their work to fight impunity, and we urge this Council and the parties to work vigorously together to fulfil the demands of justice and create an enduring record of crimes that we dare not forget.

Mr. Urbina (Costa Rica) (*spoke in Spanish*): I should like to start by welcoming the presence among us of the Minister for Foreign Affairs of Turkey and the Prime Minister of Croatia. I should also like formally to welcome the Turkish presidency of the Security Council and to reaffirm the support and cooperation of my delegation for its work.

I would further thank the Russian Federation for its organization and conduct of our work last month, which was tarnished only by the discourteous and antidemocratic attitude of its Permanent Representative when he abruptly ended our meeting of 28 May, before my delegation was able to respond to his unwarranted rebukes of a statement I had made on the need to improve the Security Council's working methods in the preparation of its missions. My delegation has no need of his criteria for assessing the status of the permanent and elected members of this Council, or for appreciating the work of the Secretariat.

Today, I welcome the presence among us of Presidents Patrick Robinson and Dennis Byron and of the Prosecutors of the International Criminal Tribunals. I thank them for their briefings and recognize the efforts of both Tribunals to fulfil the completion strategies, pursuant to resolutions 1503 (2003) and 1534 (2004). Costa Rica believes that the establishment of the international Tribunals was a fruitful decision, ratifying the Council's intention to put an end to impunity for violations of international humanitarian law and human rights. It offered justice to the victims of such crimes and created an important deterrent.

The accomplishments of the Tribunals have shown that peace and justice are not at odds with one another, but that justice contributes actively to the sustainability of peace. Furthermore, the establishment

of the Tribunals helped to raise awareness of the need for a permanent International Criminal Court, which is now a reality.

As we move towards the end of the Tribunals' work, it is more necessary than ever for all Member States, in particular those in the respective regions of the Tribunals, to cooperate with them. Costa Rica calls upon all States to strengthen their collaboration with the Tribunals.

The primary legacy of the Tribunals in the fight against impunity should be the strengthening of national judicial systems. A sustainable justice system is the best guarantee of lasting peace. Costa Rica values the measures to build national capacity undertaken by both international Tribunals. Those measures will facilitate the referral of minor cases to the competent national jurisdictions and enable the Tribunals to focus their work on the indictment and prosecution of high-level leaders suspected of being the parties primarily responsible for crimes falling within their jurisdictions.

Along those lines, we wish to ask Prosecutor Jallow if he is considering beginning trials against other parties that participated in the Rwandan conflict, who are accused of crimes that took place during the time period the Tribunal is charged with investigating. My delegation considers it important that the continued impartiality of justice be guaranteed and that all citizens allegedly responsible for crimes be prosecuted and brought to justice before the international justice system.

With regard to residual functions of the Tribunals, our delegation supports the Council's presidential statement issued as document S/PRST/2008/47, which emphasized the reduced nature of those functions and the need for a small, temporary and efficient mechanism whose functions and size would diminish over time. The residual mechanism must be authorized to try known criminals who have yet to be brought to justice.

For our delegation, it is important that both Tribunals redouble their efforts to reduce the delays vis-à-vis the original time frames. However, that should not be to the detriment of the rights of the accused to due process as provided in the statutes governing the Tribunals. In that vein, my delegation welcomes the establishment of judicial timetables and working groups in order to speed up the trials, and we encourage the Tribunals to continue to carry out reforms that will permit completion of the trials and make the best use of available resources.

The President: I shall now make a statement in my national capacity.

I would like to thank the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their introduction of the reports (see S/2009/252 and S/2009/247). Turkey acknowledges the progress made by both Tribunals in the implementation of their completion strategies. We commend the strong commitment by the judges, the Prosecutors and the entire staff of the ICTY and the ICTR to meet the timelines set by the Security Council. However, it is clear that neither of the Tribunals is able to meet the target dates envisaged in the completion strategies. We thus encourage the Tribunals to continue their efforts to expedite the proceedings, without prejudice to the principle of a fair trial.

On the other hand, we should bear in mind that speedy realization of the completion strategies does not solely rely on the work carried out by the ICTY and the ICTR. In particular, additional measures need to be taken by the Security Council to match the judicial capacity of the Tribunals with current circumstances. Turkey is ready to support every step in that direction.

Cooperation is another essential element of the successful completion of the Tribunal's work. Despite a certain amount of progress, we have regretfully noted that the number of fugitives has remained unchanged since the last biannual reports of the Tribunals. In that regard, we wish to appeal to all States to fully cooperate with the Tribunals, particularly in the pursuit and arrest of fugitives. All those responsible for violations of international humanitarian law in the territories of the former Yugoslavia and Rwanda must be brought to justice.

Finally, referral of cases to national jurisdictions also plays an important role in the fulfilment of the Tribunals' mandates. Here too, we would like to appeal to the international community to provide support, wherever necessary, in order to strengthen the capacity of national institutions of the countries concerned.

In conclusion, the Tribunals have so far made important contributions to international criminal

justice. However, as we are now approaching their closure date, much needs to be done regarding legacy and residual issues. In that regard, we very much appreciate the dedicated work of the informal working group on the international tribunals to resolve the remaining outstanding issues in the coming months under its Austrian Chair.

Once again, I would like to thank the Presidents, the judges, the Prosecutors and all other officials of the Tribunals for their determined work and their efforts to end impunity.

I now resume my functions as President of the Council.

I now give the floor to the Permanent Representative of Serbia. Allow me to welcome him in his new assignment and to wish him continued success.

Mr. Starčević (Serbia): Although I do not belong to the membership of the Security Council, I wish to congratulate you, Sir, and your country Turkey, on your assumption of the presidency of the Council for the month of June. I know that, under your wise guidance, the Council will be able to effectively deal with the problems on its agenda.

At the outset, I would like to express the gratitude of Serbia to Judge Patrick Robinson, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and to Mr. Serge Brammertz, its Prosecutor, for the efforts they put into their comprehensive reports (see S/2009/252). My country is appreciative of the fact that the substance and thrust of the reports are in agreement with our own assessment of the level of cooperation achieved so far. Serbia's efforts to comply with its legal and moral obligations — such as witness protection, provision of documents to the ICTY Office of the Prosecutor and all other means of technical assistance, along with the commitment of the Serbian authorities to continue addressing these issues — are recognized, while joint efforts to ensure success in that cooperation are pledged in the reports.

Such recognition is illustrative of the growing belief in the political will and commitment of Serbia to fulfil its obligations towards the ICTY and in its resolve to apprehend the two remaining fugitives. The growing belief in Serbia's commitment to cooperation with the ICTY came recently from the United States Secretary of State in the form of recognition that Serbia is doing its best in this undertaking. Serbia remains firm in its intention to fulfil its obligation to apprehend Ratko Mladić and Goran Hadžić, as it remains dedicated to foster the level of cooperation that has been achieved in the preceding period.

In the last two weeks, following the publication of the Prosecutor's report, Serbia circulated a detailed report on the Government's activities related to its cooperation with the Tribunal and informed the diplomatic community about recent developments in that regard, following Mr. Brammertz's recent visit to Belgrade.

Serbia continues to support the ICTY's completion strategy, defined by Security Council resolutions 1503 (2003) and 1534 (2004). Proceeding from that strategy, the ICTY has identified the 12 most important functions of the residual mechanism to be set up upon the completion of the Tribunal's activities.

On the issue of the ICTY archives, described as one of the most important of those functions, Serbia presented its official position to the ICTY and to the Security Council on 23 October 2008 and is interested in participating in the ongoing dialogue on this important issue. In addition, in relation to the ICTY completion strategy, the Government of the Republic of Serbia presented its views on the subject of the residual mechanism to the ICTY and the Security Council after the official position of the Government was adopted on 13 March 2009.

In conclusion, allow me to reiterate once again that Serbia's commitment to full cooperation with the ICTY will continue. The reports presented to the Council also take note of that commitment, inviting Serbia to continue to foster the level of cooperation that has been achieved. Serbia will continue to make every effort to see this cooperation through to a successful end.

Let me also add our congratulations to Mr. John Hocking on his appointment to the post of Registrar of the Tribunal.

The President: I now give the floor to the representative of Bosnia and Herzegovina.

Mr. Barbalić (Bosnia and Herzegovina): Mr. President, I would also like to congratulate you on your country's assuming the presidency of the Security Council for this month.

Allow me at the outset to express my deep appreciation to the Presidents and the Prosecutors of both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for presenting their reports and their assessments. We can all agree that the Tribunals' work through the years has been and remains of great importance, as they have emphasized with each new judgement the role that they play in creating a legacy for the future of international criminal justice and international law as a whole.

Created as an ad hoc measure for restoring and maintaining peace and fostering reconciliation in our respective regions, the Tribunals have grown into very complex institutions. Accordingly, the completion of their mandates, as set forth in the relevant resolutions of the Security Council, demands very careful consideration. It is both necessary and important not to undermine the work that has been done by the Tribunals so far simply to meet the deadlines.

Bosnia and Herzegovina especially welcomes the reports of both the President and the Prosecutor of the ICTY, and their continuing positive assessment of the cooperation between Bosnia and Herzegovina and the Tribunal. Referral of cases to national jurisdictions under rule 11 *bis* is a very important component of the completion strategy and is taken seriously by the judicial authorities of my country, proving once again Bosnia and Herzegovina's strong determination to see that justice is served. The number of cases referred to our national courts is significant compared to other countries of the region and has had a positive impact on the overall workload of the Tribunal.

The War Crimes Chamber of the State Court of Bosnia and Herzegovina is fully operative, and our judges, in cooperation with their international counterparts, have created a positive environment as well as the conditions within our judicial system needed to meet the requirements of rule 11 *bis*. My country has continued to grant access to Government archives and provide the documentation requested by the Tribunal. Moreover, relevant authorities have adequately responded to assistance requests and have facilitated the appearance of witnesses before the Tribunal.

Closely linked with our cooperation with the ICTY is a State Strategy on War Crimes Cases, adopted in December 2008 by the Council of Ministers of Bosnia and Herzegovina. The Strategy sets forth criteria for distributing cases between national and lower level courts, reflecting work done in the cataloguing of crimes committed. The Strategy also stresses the importance of regional cooperation in the investigation of war crimes and calls upon all authorities to urgently improve their cooperation in this area.

Thus, speaking of regional cooperation, it is unacceptable that the Government of the Republic of Serbia through Interpol issued international warrants for 19 citizens of Bosnia and Herzegovina for war crimes alleged to have been committed in Bosnia and Herzegovina. It is important to stress that the ICTY remanded this case to the relevant courts in Bosnia and Herzegovina. Because the war crimes were alleged to have been committed on the sovereign territory of Bosnia and Herzegovina by the citizens of Bosnia and Herzegovina, it is clear that this case should be tried before courts of Bosnia and Herzegovina.

My country also recognizes the efforts of the Prosecutor, Mr. Serge Brammertz. Although his dedication and determination have secured justice for victims and peace for their families, the fact that two fugitives remain still at large represents a serious obstacle to the complete fulfilment of the Tribunal's mandate. These fugitives must be brought to trial before the ICTY; they cannot be allowed to enjoy impunity as a result of the end of the Tribunal's mandate.

In this regard, Bosnia and Herzegovina calls for the immediate arrest of these two remaining indicted war criminals — Ratko Mladić and Goran Hadžić. These arrests must remain the Tribunal's main priority, which is the principal reason why the international community should not declare the Tribunal's mandate completed until justice is brought to the victims and their families.

For this reason, the implementation of the completion strategy remains of great concern to us. We all must keep in mind the fundamental reason why the ad hoc tribunals were established. The strong involvement of the international community through the residual mechanisms in several important aspects such as arrest and trial of remaining fugitives, contempt proceedings and supervision and management of prison sentences is thus very much required.

We duly note that the Tribunal's commitment to following its completion strategy is demonstrated through the adoption of concrete measures for enhancing the efficiency of the proceedings. However, both the full support of the Security Council and the international community and modification of the deadlines already announced remain of crucial importance. Ongoing delays in the arrest and transfer of indictees jeopardize the timely implementation of the completion strategies.

All of the issues that I have outlined require careful consideration and present practical challenges, as we strive, now more than ever, to develop principled yet effective residual mechanisms. The cooperation and support of all countries is greatly needed to ensure that impunity not be an option.

The President: I now give the floor to the representative of Rwanda.

Mr. Ngoga (Rwanda): I thank the Council for the opportunity to contribute to this debate. My delegation wishes to thank the President and Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) for the presentation of their reports. We particularly welcome their acknowledgement and recognition of the cooperation extended to the Tribunal by my Government.

In the period since the last year's last briefing to the Council, my Government has consistently extended the cooperation and support necessary to enable the ICTR to effectively execute its mandate. We have continued to facilitate unfettered access to witnesses for both the defence and the prosecution and assisted the movement of witnesses to and from Arusha. I am pleased to report to the Council that, in my Government's efforts to ensure the peace and stability of our citizens, we have continued to ensure the security of witnesses and responded to any issues that have arisen on a case-by-case basis. My Government has continued to support investigations initiated by both the prosecution and the defence, without prejudice to either.

My Government remains committed to continuing its support for the ICTR's completion strategy as set out in resolution 1503 (2003). Despite last year's disappointing decision by the Trial and Appeals Chambers to reject the Prosecutor's request to transfer cases to Rwanda, we remain prepared to receive any future cases transferred to our competent jurisdiction by the ICTR and to address all of the issues raised in the objections by the Chambers in their respective decisions.

In this regard, we have undertaken a review and proposed amendments to the law governing the transfer of cases and the law abolishing the death penalty, and we have established a witness protection unit within the judiciary. These reforms are resolutely based on my Government's perspectives on the ICTR's completion strategy, and specifically with regard to the transfer of cases rather than the maintenance of the status quo.

The decisions by the Trial and Appeals Chambers have severely undermined my Government's ability to pursue and bring to justice those suspected of genocide all over the world. Those decisions have in tone and content diluted the efforts my Government has pursued to reject a culture of impunity and have set back the progress made in repairing our torn national fabric, not only in the justice sector but in all aspects of national reconciliation and reconstruction.

Those decisions, coupled with erroneous and incorrect factual assessments and occasional deliberate misrepresentations by otherwise useful human rights organizations, such as Human Rights Watch, remain solely responsible for the widening impunity gap that we are currently experiencing. The challenge of reversing the status quo is collective and has a direct bearing on the legacy of the ICTR. However, we remain confident that this situation will be reversed.

My Government has repeatedly and unequivocally stated its view that the archives of the ICTR should be transferred to Rwanda upon completion of the Tribunal's mandate. That conviction is premised on the fact that those records constitute an integral part of our history, are vital to the preservation of the memory of the genocide and will play a critical role in educating future generations to ensure the prevention of genocide. We recognize the ongoing process to determine the final destination of the ICTR archives and remain hopeful that that destination will be Rwanda, without prejudice to wider and unrestricted access by the international community; nor does this position constitute a dispute over ownership of those archives.

We have completed ratification of the agreement between the ICTR and the Government of Rwanda regarding the serving in Rwanda of sentences handed down by the ICTR, and the instruments of ratification

have been deposited. We have also recently signed an agreement with the Special Court for Sierra Leone regarding sentences handed down by that Court. We believe that that is essential to dispel the perceived mistrust of Rwandan institutions and that it will, equally, contribute to the reconciliation process in Rwanda.

In conclusion, Mr. President, allow me to thank you again for the opportunity to contribute to this dialogue and to reiterate my Government's continued commitment to supporting the work of the International Criminal Tribunal for Rwanda.

The President: I now give the floor to the representative of Kenya.

Mr. Muita (Kenya): Let me begin by thanking you, Mr. President, and the other members of the Security Council for allowing me to participate in the proceedings of the Council today. I also wish to extend my appreciation to the Presidents and the Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), respectively, for their comprehensive reports (S/2009/247 and S/2009/252) submitted to the Council pursuant to the relevant Security Council resolutions and for their stewardship of the affairs of their respective judicial bodies.

In reference to the mention of Kenya, I would like to report that my country has been and continues to be an active player in the international criminal justice system. I wish to reiterate that my delegation stated last year that the ad hoc criminal Tribunals established by the Council and the International Criminal Court must provide and protect the proper administration of justice by prosecuting those who promote impunity. To that end and with regard to the ICTR, Rwandan fugitives found within Kenyan territory in the past were arrested and surrendered to the ICTR. We have actually helped deliver the highest number of genocide suspects to the Tribunal. That is a demonstration of Kenya's commitment to the Court's work and to the administration of international criminal justice in general.

Concerning the fugitive Félicien Kabuga — who is wanted by the ICTR for prosecution — regarding whom the Prosecutor alluded to the possibility that the fugitive is resident in Kenya, my delegation would like to state again that the fugitive is not in Kenya. He was in my country in the 1990s, but he is certainly not there today. Kenya has no benefit in hiding the fugitive. In any case, with the kind of reward on his head, no Kenyan would allow him to run around the country unreported.

The Government of Kenya has followed every possible lead in this case and has come to a dead end, and comprehensive reports to that effect have been made to Arusha. The Prosecutor should widen his search to include destinations where the money trail leads and where the fugitive is said to own other property.

Further, the Government of Kenya has been engaged in consultations with the Prosecutor's Office through the Joint Kenya-ICTR Task Force; in particular, the Tribunal is aware that the Kenyan authorities are vigorously defending in the Appeals Court a decision of a lower court to freeze transactions relating to property registered in the fugitive Félicien Kabuga's name. Our commitment to the cause of the ICTR is unquestionable, and should the fugitive ever be found within Kenya's territory, he will be apprehended and surrendered to the Tribunal.

Before I conclude, I wish to indicate that the case for additional ad litem judges, as has been elaborated by the President of the ICTR, is one that contains merits and that therefore my delegation supports. I wish to end by reassuring the Council of Kenya's unwavering commitment to cooperate fully with the Court in support of international criminal justice and the eradication of impunity.

The President: I now give the floor to Judge Byron, President of the International Criminal Tribunal for Rwanda, to respond to questions and comments.

Judge Byron: I think that I need only say that the International Criminal Tribunal for Rwanda is in general very pleased with the expressions of confidence expressed by the States members of the Security Council. I would like to reiterate our commitment to work as hard as we can to honour the mandates of the completion strategy and to bring the trials completely to an end as soon as possible.

The President: I thank Judge Byron for the clarification that he has made. I now give the floor to Mr. Jallow, Prosecutor of the International Criminal Tribunal for Rwanda, to respond to questions and comments.

Mr. Jallow: My thanks, Mr. President, go not only to you but to all the members of the Security Council for their support and their encouragement.

Turning to the last issue that was raised in relation to Kabuga, of course I would like to acknowledge the support that the International Criminal Tribunal for Rwanda (ICTR) has received from Kenya over the years in the form of the arrests of several other fugitives in the late 1990s. But even at that time, of course, Mr. Kabuga was one of the indictees whose arrest we were seeking from that country, and he was the only person to have escaped arrest from Kenya in the late 1990s, when operations were mounted jointly by the police force and our staff to transfer indictees who were wanted in Arusha. Since then, this has continued to be an issue. As I indicated earlier, it is a simple matter; if the Kenyan Government is saying categorically that he has left the country, we would like to be advised of the circumstances of his departure so that the case can be followed up appropriately.

Regarding the matter of allegations against the Rwandese Patriotic Front (RPF), we of course recognize that this is a matter that falls within our mandate, and we have been investigating those allegations with the result that, last year, we were able to reach an understanding with the Rwandans, who wanted to prosecute the case that we had developed. That was the Kabgayi case relating to the killings of several clergy in Kabgayi by RPF soldiers.

As I have already reported to the Council, we gave the Rwandan prosecuting authorities the opportunity to proceed with that case against four senior military officers for the killings of those clergy and other civilians. At the trial level, two of them were convicted and two acquitted; that decision was confirmed by the Appeals Court in Kigali. The trial itself was monitored by staff from my Office. It was an open and public trial, and other parties monitored the proceedings, which, were, in fact, also video recorded. The report of my monitors indicates that the standards of fair trial were observed, and we have now received translated copies of the judgements.

That is not the only case that has been prosecuted in Rwanda with respect to allegations against the RPF. At my request, the Rwandan military prosecutor has been able to provide me with details of up to two dozen senior military officers who, between 1994 and now, have been prosecuted before Rwandan military courts with respect to allegations against the Rwandese Patriotic Front (RPF).

So, a lot of work has already been undertaken in this area; indeed, the work is ongoing. What I can say is that, at this stage, other than on those cases that I have mentioned, my Office does not have an indictment that is ready in respect of these allegations at this particular stage.

The President: I thank the Prosecutor of the International Criminal Tribunal for Rwanda for his clarifications.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

May I take this opportunity, on behalf of the Security Council, to thank Judge Robinson, Judge Byron, Prosecutor Brammertz and Prosecutor Jallow for taking the time to brief the Security Council.

The meeting rose at 1.15 p.m.

United Nations S/PV.6135

Security Council

Sixty-fourth year

Provisional

6135th meeting

Friday, 5 June 2009, 10 a.m.
New York

President:	Mr. Ilkin	(Turkey)
Members:	Austria	Mr. Mayr-Harting
	Burkina Faso	Mr. Kafando
	China	Mr. Liu Zhenmin
	Costa Rica	Mr. Urbina
	Croatia	Mr. Vilović
	France	Mr. Ripert
	Japan	Mr. Takasu
	Libyan Arab Jamahiriya	Mr. Dabbashi
	Mexico	Mr. Heller
	Russian Federation	Mr. Rogachev
	Uganda	Mr. Mugoya
	United Kingdom of Great Britain and Northern Ireland	Mr. Parham
	United States of America	Ms. Rice
	Viet Nam	Mr. Hoang Chi Trung

Agenda

Reports of the Secretary-General on the Sudan

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

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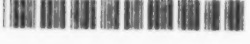

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The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court.

It is so decided.

I invite Mr. Moreno-Ocampo to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, whom I welcome. I now give him the floor.

Mr. Moreno-Ocampo: Mr. President, I thank you for inviting me to brief the Council today. In March 2005, through resolution 1593 (2005), the Council referred the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court. For two months, my Office assessed the allegations of massive crimes committed in Darfur and the existence of national proceedings in relation to them. Since there were no such proceedings, I decided, as Prosecutor to open an investigation in June 2005.

Under the Rome Statute, the policy of my Office is to investigate and prosecute, in accordance with the evidence collected, those most responsible for the gravest crimes under our jurisdiction. This is what we did in the Darfur situation.

We collected evidence impartially for two years, relying on information provided by many actors, including the Government of the Sudan, and on the testimonies of more than 130 witnesses. We took those testimonies in more than 18 countries and devoted a great deal of effort to ensuring the protection of witnesses.

In our first case, we investigated the massive killings, rapes and torture of civilians in their villages during the period 2003-2005, which led to the displacement of four million civilians. The evidence revealed the role of the Minister of State for the Interior, Ahmed Haroun, as the coordinator of massive crimes against civilians not participating in the conflict, and the role of Janjaweed militia leader, Ali Kushayb, in specific attacks.

In our second case, we covered the same massive crimes against villagers and the continuing crimes being committed against displaced persons in the camps. The evidence showed the role played by President Omar Al-Bashir, beginning in 2003, when he ordered the operations against civilians in the villages, through 2005, when he appointed Ahmed Haroun as the Minister of State for Humanitarian Affairs and organized the process of strangulation of the displaced communities, denying them any meaningful assistance, preventing their return, forcing the United Nations and others to set up the largest humanitarian operation in the world and yet obstructing each step of their work.

On 4 March 2009, Pre-Trial Chamber I issued an arrest warrant for five counts of crimes against humanity, including extermination, rapes and killings, and two counts of war crimes against President Omar Al-Bashir. By a two to one vote, the Judges rejected the three genocide charges at this stage. The Office has appealed, and the Pre-Trial Chamber has yet to decide to grant leave to appeal on this topic.

The Judges' decision on 4 March has clarified the type of crimes committed in Darfur against the displaced persons in the camps. While the peacekeepers monitor fighting between parties to the conflict and the humanitarian workers monitor the physical plight of the civilians, the International Criminal Court monitors individual behaviour that can constitute crimes within our jurisdiction.

The intentional infliction of conditions of life in the camps, where the Sudanese State apparatus controlled by President Al-Bashir does not provide assistance and is obstructing the provision of assistance, and the multiple rapes of women leading to physical or mental harm, are both crimes within the jurisdiction of the International Criminal Court.

The Judges have retained the charge of extermination as a crime against humanity.

Under paragraph 2(b) of article 7 of the Rome Statute, extermination includes "the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population". That provision mirrors those of article 6 of the Statute, on genocide, which establishes that causing serious bodily or mental harm to members of a group and deliberately inflicting on that group conditions of life calculated to bring about its physical destruction, in whole or in part, can constitute genocide. The only difference between extermination and genocide is the latter's requirement that an intention to eliminate a specific group be demonstrated, in this case the Fur, Massalit and Zaghawa. Extermination has been happening since at least 2004, and it is happening today. Extermination is happening, with 2.5 million victims so far. Extermination is happening before the eyes of the international community.

We have also investigated and prosecuted attacks against peacekeepers. The attack on Haskanita in September 2007, which caused the deaths of 12 African Union peacekeepers and left thousands of people without protection, was the most serious of all the attacks against peacekeepers in the region.

On 7 May 2009, Pre-Trial Chamber I issued a first summons for Bahar Idriss Abu Garda, President of the United Resistance Front, to appear in relation to the Haskanita crimes. He appeared in court in The Hague on 18 May 2009. Let me thank those countries that have facilitated investigative missions of my Office and have helped to protect victims and witnesses and to facilitate the initial appearance of the first individual to have agreed to appear voluntarily before the Court, among them Gambia, Mali, the Netherlands, Nigeria and Senegal.

Those are the cases currently being prosecuted by the Court. The Court has investigated the crimes committed in Darfur over the past 6 years. We have identified the persons most responsible for the most serious crimes committed in Darfur. That is our judicial mandate, our contribution to stopping the crimes and preventing future crimes.

We have identified six individuals to be prosecuted. Three arrest warrants and one summons have been issued. The Judges' decision on two remaining individuals in the Haskanita case is pending. There is no sealed decision or other case pending at this stage.

As I mentioned in previous briefings, the list of 51 names prepared by the United Nations International Commission of Inquiry for Darfur is not used by my Office.

As I have done in the past, I would like to inform the Security Council of the next activities of my Office. I will be precise in order to facilitate the planning of other actors involved.

The judicial process is going ahead. The hearing for the confirmation of the charges against Bahar Idriss Abu Garda in the Haskanita case is scheduled for 12 October in The Hague. It will require the appearance of very few witnesses. The rebel groups have to facilitate the appearance of the other two commanders. They have committed to do so. They must now act.

The arrest warrant concerning President Al-Bashir has been sent to the Sudanese authorities. The Government of the Sudan has the responsibility to arrest him. Their legal obligation stems from the United Nations Charter and resolution 1593 (2005).

International experience, such as in the cases of Slobodan Milošević and Charles Taylor, as well as national experiences, indicate to us that the implementation of a judicial decision against a head of State is a process that can take time — months or years. In the end, however, they have all faced justice.

The Government of the Sudan also has the duty to arrest Ahmed Haroun and Ali Kushayb. The designation of Ahmed Haroun as Governor of South Kordofan contravenes the resolutions of the Security Council. He has to be arrested and sent to The Hague.

The arrest of persons sought by the Court is a process. It is first and foremost the responsibility of the Government of the Sudan. By resolution 1593 (2005), the Council established the duty of the Government of the Sudan to cooperate with the Court. Three year later, in June 2008, the Council confirmed its decision in the presidential statement published as document S/PRST/2008/21. In July 2008, a few days after my Office submitted to the Judges an application for an arrest warrant against President Omer Al-Bashir, the Council also adopted resolution 1828 (2008), which again emphasized the need to bring to justice the perpetrators of such crimes and urged the Government

of the Sudan to comply with its obligations in that respect. Those resolutions, as well as the presidential statement, establish a clear framework.

States parties to the Rome Statute have the responsibility to arrest and surrender any indictee travelling to its territory. There is no immunity under the Rome Statute. States parties have taken a number of initiatives in that regard. Some have publicly reasserted their obligations, should indictees elect to travel in their territory. States not parties to the Statute have no such legal obligation, but resolution 1593 (2005) urges them to cooperate fully with the Court. They can help the process of justice and deter new crimes by consistently raising with the Sudanese authorities their duty to respect Security Council resolutions and the ensuing decisions of the Court.

With regard to complementarity, I can confirm that, as of now, there are no national proceedings in the Sudan in relation to the massive crimes investigated by the Court. The most recent report of the Government of the Sudan circulated to the African Union and the United Nations on 2 February of this year indicated no new developments in that regard. Over the past six years, the Sudan has tried and completed only seven cases, from the dockets of the ordinary courts, and with no connection with the campaign of crimes coordinated by Ahmed Haroun, perpetrated by Ali Kushayb and others and ordered by President Omar Al-Bashir.

In the coming six months, in accordance with its mandate, my Office will continue to monitor crimes and galvanize efforts to arrest fugitives.

Let me be clear: I do not plan to open a new investigation during the coming six months, but I will continue to review new information on ongoing crimes. The focus will be on, inter alia, first, any new decision affecting the displaced persons, in particular the role played by the Humanitarian Aid Commission; secondly, the spillover of violence from Darfur into Chad and information related to acts against civilians promoted by the Ministry of Defence of the Sudan and others; and thirdly, the use of child soldiers by various parties, including some rebel movements. I have prosecuted the crime of the recruitment of child soldiers in the *Lubanga* case in the situation of the Democratic Republic of the Congo. It is a crime with a terrible impact on victims, their communities and their futures. It destroys generations.

Finally, it is a main objective of my Office in the months to come to build upon its cooperation with regional organizations as provided for in resolution 1593 (2005).

I visited Doha this past week upon the invitation of Prime Minister Al-Thani. He is leading Arab League and African Union efforts to mediate the conflict. I have seen the commitment of the Qatari authorities to ending the violence and promoting peace and the efforts invested by the international community to avoid further violence. The work of the African Union-United Nations mediation for Darfur is crucial to ensuring a comprehensive solution and security for the Darfuris now, and it is moving forward. A year ago, nobody would have dreamed that the peace process would progress so far. One year ago, there was no peace process. This past week, I saw real hope and commitment. My role is of a purely judicial nature, but I fully appreciate the importance of the wider political and security process taking place in Doha aimed at stopping the violence and preventing future crimes.

I am also liaising with the African Union high-level panel led by former President Thabo Mbeki, which has been mandated by the African Union to address in a mutually reinforcing manner the interlinked issues of combating impunity and promoting peace and reconciliation. As former President Mbeki stated at the panel's inauguration in Addis Ababa on 18 March 2009, the African Union has taken the clear and unequivocal decision that the continent must act not only to end war and violent conflict in Africa, but also to ensure that where war breaks out anyway, all belligerents must know that war crimes, crimes against humanity and other abuses will be punished resolutely and that a culture of impunity will not be permitted to take root and entrench itself.

I have had the opportunity to consult with former President Mbeki on several occasions, and we are planning to meet with him and the African Union high-level panel on Darfur.

I also had a productive phone conversation with African Union Commission Chairperson Jean Ping this week, on 3 June, and we are planning to meet in Addis Ababa.

The Arab League has been pushing successfully for the adoption of a criminal code in the Sudan that includes Rome Statute crimes. The other promises, including the investigation and prosecution of

individuals responsible for crimes, no matter what their level or rank, made by the Government of the Sudan to Secretary-General Amr Moussa this past July could, if fulfilled, help turn the tide in the situation in terms of impunity in Darfur.

Our efforts complement each other. The role of regional organization in promoting accountability and reconciliation at all levels for the Darfuris and in preventing future crimes is unique. In accordance with the Rome Statute, the International Criminal Court is a court of last resort, complementary to the national judiciary. We have six cases. Should regional organizations succeed in promoting national accountability mechanisms for the victims of other crimes, and stop new abuses, we would not need to intervene further.

Allow me to conclude. Resolution 1593 (2005) was one among various decisions taken by the Council to confront the violence in Darfur. Other resolutions of the Council address the need for a comprehensive political settlement in Darfur, for the protection afforded to Darfuris by peacekeepers and for the distribution of aid. All such aspects are key to ending the violence and the crimes in Darfur.

The International Criminal Court is fulfilling its judicial mandate to factually and legally describe the crimes committed and to prosecute its cases, respecting the law, respecting the victims and respecting the persons accused. The judges have issued decisions on those most responsible for the most serious crimes in Darfur. There will be no impunity in Darfur. Justice proceedings are in motion.

We are at a crossroads. The coming six months will be crucial. Most of the millions of victims of crimes have lived in the camps for four years. Young people are unable to move around. There is no education. There are no jobs. If girls and women go outside the camps, they are raped. If boys go outside, they are killed or, in some locations, abducted to fight. There is a generation of child soldiers in the making. There is a generation of victims faced with two options: they can leave the camps and die the same day or they can remain in the camps and die the day after.

Violence will bring no victory. For the sake of the Darfur civilians, all the parties to the conflict have to stop resorting to violence. This is the absolute priority, to prevent future crimes.

The President: I thank Mr. Moreno-Ocampo for his briefing. There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of it consideration of the item on its agenda.

The meeting rose at 10.45 a.m.

United Nations S/PV.6136

Security Council

Distr.: General
5 June 2009

Original: English

Official communiqué of the 6136th (closed) meeting of the Security Council

Held in private at Headquarters, New York, on Friday, 5 June 2009, at 10.50 a.m.

In accordance with rule 55 of the provisional rules of procedure of the Security Council, the following communiqué was issued through the Secretary-General in place of a verbatim record:

"At its 6136th meeting, held in private on 5 June 2009, the Security Council considered the item entitled 'Reports of the Secretary-General on the Sudan'.

"The President, with the consent of the Council, invited the representatives of Afghanistan, Algeria, Australia, Belgium, Bosnia and Herzegovina, Brazil, Canada, the Czech Republic, Denmark, Egypt, Estonia, Finland, Germany, India, Ireland, Israel, Italy, Kenya, Lebanon, Liechtenstein, Luxembourg, Malaysia, Morocco, the Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, Qatar, Romania, Singapore, Slovakia, Slovenia, South Africa, Spain, the Sudan, Suriname, Sweden, Switzerland, Tunisia, the United Republic of Tanzania and Yemen, at their request, to participate in the consideration of the item without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

"Pursuant to the decision taken at the 6135th meeting, the President recognized the presence at the Council table of Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, in accordance with rule 39 of the Council's provisional rules of procedure.

"The members of the Council had an exchange of views."

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